

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 JEAN R. DEMESMIN, individually and)
 d/b/a LBS TAX SERVICES, BE PROUD)
 FASHIONS LLC, BPTS, LLC, and)
 JDTR, LLC; and TONYA CHAMBERS)
 a/k/a TONYA RIVERA, individually and)
 d/b/a LBS TAX SERVICES, BPTS TAX)
 SERVICES, BPTS LLC, TAXES DONE)
 RIGHT, LLC, and TONYA RIVERA, LLC,)
)
 Defendants.)

Civil No. 6:14-cv-1537-021-406GJK

RECEIVED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TALLAHASSEE, FLORIDA

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America, for its complaint against Jean R. Demesmin, individually and doing business as LBS Tax Services, Be Proud Fashions, LLC, BPTS, LLC, and JDTR, LLC, and Tonya Chambers a/k/a Tonya Rivera, individually and doing business as LBS Tax Services, BPTS Tax Services, BPTS, LLC, Taxes Done Right, LLC, and Tonya Rivera, LLC, alleges as follows:

1. This is a civil action brought by the United States under I.R.C. (26 U.S.C.) §§ 7402, 7407, and 7408 to enjoin Jean Demesmin and Tonya Chambers a/k/a Tonya Rivera, and anyone in active concert or participation with them, from:

- (1) acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;

- (2) preparing or assisting in preparing federal tax returns that they know or reasonably should know would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;
- (3) owning, operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business;
- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;
- (5) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (6) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

This action also seeks, under I.R.C. § 7402, an order requiring Demesmin and Chambers to disgorge to the United States the proceeds that Demesmin and Chambers and their businesses received for the preparation of federal tax returns that make false or fraudulent claims.

Jurisdiction and Venue

2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to I.R.C. §§ 7402, 7407, and 7408.
3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. § 7402.
4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because the Defendants reside in this district and all or a substantial portion of the activities occurred within this district.

Defendants

5. Jean R. Demesmin resides in Mt. Dora, Florida. Demesmin is a franchisee of LBS Tax Services. Demesmin is the sole owner of Be Proud Fashions, LLC and JDTR, LLC, and was previously an owner of BPTS, LLC. Through these entities, Demesmin owns and operates 26 tax return preparation stores in Florida, Georgia, North Carolina, and Tennessee.

6. Tonya Chambers resides in Apopka, Florida. Tonya Chambers is also known as Tonya Rivera. Chambers began preparing tax returns at one of Demesmin's tax return preparation stores in 2010. Chambers is the current owner of BPTS, LLC, and the sole owner of Taxes Done Right, LLC and Tonya Rivera, LLC. Through these entities, Chambers operates 6 tax return preparation stores in Florida and North Carolina under the name LBS Tax Services and BPTS Tax Services (the name she began using in 2014). BPTS stands for Be Proud Tax Services. According to Chambers, she is now the owner of these 6 stores, although she claims to never have signed a sales contract or similar agreement with Demesmin or paid any money to Demesmin specifically for their purchase.

7. LBS Tax Services is a tax return preparation business that Walner G. Gachette franchises through Loan Buy Sell, Inc., a corporation organized in the State of Florida. In 2013, there were at least 239 LBS Tax Services stores in Florida, Georgia, North Carolina, South Carolina, Tennessee, Alabama, Mississippi, and Texas. LBS Tax Services franchise stores prepared over 55,000 federal income tax returns in 2013.

8. This lawsuit is one of several being filed simultaneously against the LBS franchisor and LBS Tax Services franchisees, managers, and preparers (and/or former LBS Tax Services franchisees, managers, and preparers operating under new business names) seeking injunctive relief under the Internal Revenue Code. The other cases filed on this date are: *United*

States v. Walner G. Gachette (M.D. Fla.); *United States v. Douglas Mesadieu* (M.D. Fla.); *United States v. Kerny Pierre-Louis, et al.* (M.D. Fla.); *United States v. Demetrius Scott* (M.D. Fla.); *United States v. Jason Stinson* (M.D. Fla.); *United States v. Wilfrid Antoine* (S.D. Fla.); and *United States v. Jacqueline Nunez* (S.D. Fla.).

LBS Tax Services' Business Structure

9. LBS Tax Services ("LBS") began in 2008 as a tax return preparation business in Orlando operated by Walner Gachette. In 2011, Gachette began franchising the LBS name to his employees to broaden his revenue base.

10. Demesmin began working at LBS in 2009. Gachette and Demesmin were partners in a real estate venture under the name Loan Buy Sell, and when Gachette began to prepare tax returns under that name, he offered Demesmin the opportunity to work at the new business. In August and November 2010, Demesmin signed two franchise agreements with Gachette (through Gachette's business, Loan Buy Sell, Inc.). As a franchisee, Demesmin owned 4 LBS stores in 2011, 8 LBS stores in 2012, and at least 26 LBS stores in 2013.

11. LBS's stated goal is to have 1,000 tax return preparation stores by 2016.

12. Demesmin, like most LBS franchisees, lives in the Orlando area but has opened LBS stores elsewhere in Florida and out-of-state in order to expand the LBS brand.

13. Demesmin created Be Proud Fashions, LLC, BPTS, LLC, and JDTR, LLC because Gachette requires that franchisees create LLCs through which they own their stores.

14. Demesmin and Chambers were the original managers of BPTS, LLC, and Demesmin was the registered agent. On or about November 27, 2013, Chambers filed an amendment to the Articles of Organization of BPTS, LLC, removing Demesmin as a manager and naming herself as the new registered agent.

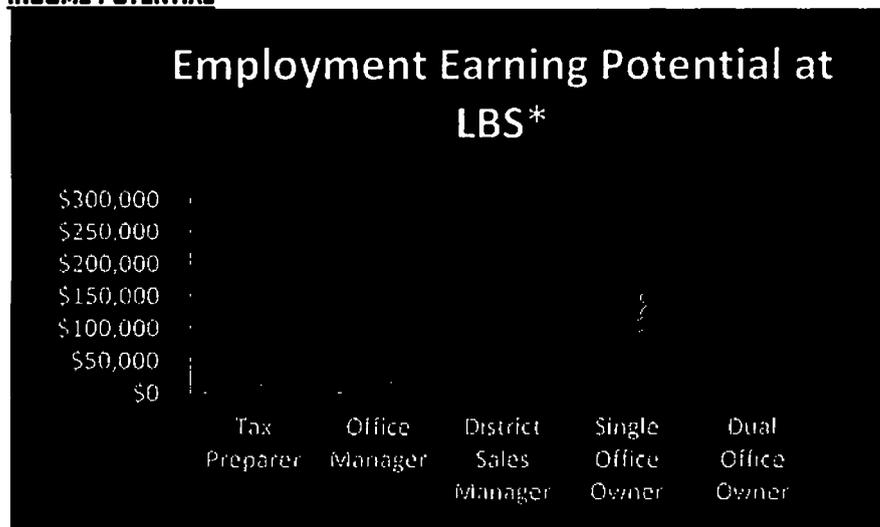
15. Each of Demesmin’s individual LBS stores is managed by a District Sales Manager (“DSM”), who works for Demesmin. DSMs, in turn, oversee office managers, tax return preparers, and marketers (employees whose sole job is to solicit customers). Chambers is employed as a General Sales Manager, serving as an intermediary between Demesmin and the DSMs of at least 14 Demesmin-owned stores. In 2013, Chambers also was a DSM at 5 stores.

16. LBS lures prospective employees with promises of wealth and possible rapid advancement to franchisee level. One recruiting advertisement for LBS uses a graph to show that for 4 months of work, LBS employees have the following earning potentials:

On-Site job training / Rapid advancement opportunity / Complimentary company cell phone while employed / Most be self-motivated/ Will be IRS certified

*Located at LBS***

INCOME POTENTIAL



Tax Preparer	\$5,000	\$10,000
Office Manager	\$10,000	\$15,000
DSM	\$25,000	\$66,000
Single Office Owner	\$90,000	\$160,000
Dual Office Owner	\$200,000	\$400,000

IN 4 MONTHS



17. The DSMs and the tax return preparers that Demesmin and Chambers employ are not required to have any tax return preparation experience, knowledge of federal tax laws or accounting, or minimum education. Rather, the focus is on finding potential employees who have “customer service” experience.

18. According to LBS, an LBS tax preparer’s job is “60% outside marketing and 40% tax filing.” LBS’s emphasis on marketing, rather than tax return preparation, is apparent.

19. Demesmin was one of the first franchisees of LBS. The franchise agreements, titled “Franchise Disclosure Document,” that Demesmin and Gachette executed on August 13, 2010 and November 1, 2010, and the related “Lbs Tax Service Addendum to Franchise Agreement,” differed somewhat from subsequent LBS franchise agreements.

20. According to the Franchise Disclosure Document, Demesmin was required to pay a \$15,000 franchise fee. These early franchise agreements stated that the “estimated total investment necessary to begin operation of an Lbs Tax Service Franchise ranges from \$29,000 to \$49,000, excluding the cost of real estate and improvements.” The franchise fee was “for a Protected Area, generally defined as a zip code.” The agreements further provided that Demesmin would pay a \$55 “service bureau fee” for each tax return filed in his stores.

21. More recently, LBS’s franchise agreement is titled a “General Independent Contractor Agreement.” Gachette requires that a franchisee pay him a \$5,000 franchising fee and \$5,000 marketing fee for every LBS store he owns, and \$50 “or more” in “service bureau” and “LBS transmittal” fees for each tax return filed. The terms disguise the nature of these fees from customers – there is no “service bureau,” nor is there any “transmittal” cost. In 2013, these two fees totaled \$74 for each tax return filed.

22. Essentially, the franchise fee is for “buying” a zip code from LBS, as Gachette limits LBS franchisees to two stores per zip code. Gachette recommends zip codes to franchisees where he believes new LBS stores should be opened based on demographic studies. LBS seeks to have most, if not all, of its offices in areas with lower income taxpayers. The addendums to the Franchise Disclosure Documents that Demesmin and Gachette executed specify which “Protected Zip Code” Demesmin was obtaining.

23. Franchisees, including Demesmin, are required to use (and pay for) the LBS advertising and marketing created by Gachette. Franchisees select a marketing package that may include, among other things, business cards, flyers, and yard signs.

24. Demesmin and his District Sales Managers, including Chambers, enter into contracts, similar to the franchise agreements described above. Loan Buy Sell, Inc. is also a party to these contracts. The contract provides that payments are made to the DSM based on the number of customers at the DSM’s store; the more customers that a store secures, the greater the financial benefit to the DSM, including a \$3,000 bonus if the store secures more than 500 customers. DSMs are also required to pay a fee, varying from \$2,500 to \$15,000 or more. The fee amount that a DSM contributes is dependent on LBS’s classification of the DSM as a 15 percent, 25 percent, 70 percent, or other percentage stakeholder in the store that the DSM manages. The DSM’s stake in his or her LBS store increases each year as steps towards becoming a franchisee.

25. Demesmin, Chambers, and LBS emphasize the volume of tax returns as opposed to the accuracy. For example, the contract between Demesmin and DSMs provides that a DSM can be fired if by **January 18** the projected number of fees generated by tax returns to be filed by the DSM’s store is less than \$35,000. The number is projected because the IRS does not

allow returns to be filed until after this date - the IRS began accepting 2012 tax returns on January 30, 2013. In other words, before tax return filing is even permitted, DSMs are supposed to have solicited a sufficient number of customers to generate \$35,000 in fees.

26. Demesmin's DSMs, including Chambers, in turn, hire tax return preparers and enter into employment agreements with the preparers that set forth, among other things, compensation and a two-year non-compete agreement. Demesmin's DSMs, including Chambers, are purportedly required to train their tax return preparers based on the purported training that the DSMs received from Demesmin and in Orlando from LBS.

27. Demesmin and LBS franchisees use tax return preparation software selected by Gachette which automatically deducts the customers' tax return preparation fees from customers' tax refunds. By mandating that LBS's fees be deducted from refunds rather than requiring payment when the tax return is prepared, Gachette effectively requires that LBS prepares tax returns for customers that result in the customer receiving a tax refund, even in instances where legally the customer is not due a refund.

LBS Tax Services' "Training" and Lack of Quality Control

28. LBS does not provide any substantive tax law training. Gachette and other LBS-affiliated individuals provide week-long training to LBS franchisees and DSMs annually at an LBS facility in Orlando. This training focuses on LBS policies, particularly how to market to potential customers and solicit business, how to manage employees, and how to use the tax return preparation software.

29. Gachette holds frequent meetings and conference calls with franchisees, including Demesmin, Chambers, and DSMs. These meetings or calls may discuss, among other things, LBS policies, fees, and marketing. Gachette also provides copies of LBS's training and policy

materials to franchisees and DSMs who attend these meetings, in addition to having franchisees and DSMs give presentations. Gachette emails (or directs his assistants to email) the LBS training and policy materials to franchisees and DSMs to ensure that anyone who does not participate in the in-person training or other meetings in Orlando has access to his training materials and copies of LBS's policies.

30. Demesmin and his DSMs, including Chambers, train the tax return preparers employed at his individual LBS stores. This training focuses on marketing and data entry to prepare tax returns and how to charge related fees to customers in accordance with LBS's policies.

31. Gachette, Demesmin, Chambers, and LBS actually train DSMs and tax return preparers how to prepare tax returns fraudulently in order to falsely and improperly maximize customers' tax refunds. Demesmin's DSMs and tax return preparers are specifically trained to increase the tax return preparation fees charged to LBS customers as they increase the customers' bogus refunds.

32. According a tax return preparer who in 2013 worked at Demesmin's LBS store located at 2479 John Young Pkwy., Orlando, Florida, the preparer "was instructed to play around with numbers on a Schedule C in order to get people back as much as possible on their return" and have customers sign statements indicating that the customers "gave all information to the tax preparer, which is untrue." When the preparer "mentioned that this was incorrect" to her store's DSM and another supervisor, the preparer was told "that they knew and that it was the way they prepare taxes." The preparer resigned because she "witnessed many returns that were done fraudulently."

33. Demesmin and Chambers provide instruction sheets to DSMs and tax return preparers that direct the preparers to input specific information into the tax preparation software to create the maximum bogus refund for customers. LBS preparers follow the instruction sheet to report customers' income within a specific range on their tax returns, even if the customers' actual income and circumstances (married, having dependents) that they provide to the preparer conflicts with what the preparer inputs into the software. By following these instruction sheets, LBS generates bogus refunds that customers are not entitled to. One such instruction sheet, frequently taped to the preparer's desk or on a wall next to the preparer's computer, indicated which boxes to check on the Earned Income Tax Credit checklist (IRS Form 8867) in order to make it appear as though the preparer complied with the "due diligence" requirements (discussed in more detail below) necessary to claim the credit (regardless of the information provided by customers and whether the customers actually qualify for the credit).

34. One LBS instruction sheet is brazenly captioned "Magic numbers." Preparers follow the instruction sheet, fabricating deductions on a Form 1040 Schedule A or creating bogus income or expenses on a Form 1040 Schedule C. The magic numbers sheet identifies the magic numbers as "16000-18000," and states that "anything lower then this you try to add income to get as close as possible" and "anything higher then this you try to take away income to get as close as possible."¹ The magic numbers sheet includes an example, for a customer who earned \$3,000 in wages, instructing the LBS tax preparer in such a situation to "input an income of 10000 on sch c" in order to falsely report the customer's income as \$13,000. The sheet also instructs the preparer to report unemployment income as Form W-2 wages. A similar LBS

¹ All quotations in this Complaint are copied exactly as they appear on the source document, including any spelling, punctuation, typographical, or grammatical errors.

instruction sheet includes the following: **“Magic range 16,000 to 18,000”**; **“If made less than 10,000 goal is to increase income so client to get more money (add forms to get them more money) add Schc”**; **“Made more than 24,000 you have to take income out so that you can get client more money. (add deductions) 2106, SchA.”** (emphasis added.) The purpose of manipulating a customer’s income in this manner is to falsely increase the amount of the Earned Income Tax Credit.

35. LBS franchisee Douglas Mesadieu, when deposed by the City of Orlando on August 26, 2013, testified that the “magic numbers would be how you can get – it’s numbers where you can get the most amount for your client... [W]orking with numbers every day, you will know how to get your clients the max, you know how to get the least.” Mesadieu further testified about “pushing numbers” to avoid detection from the IRS:

A lot of when I spoke about pushing numbers, you don’t want to be in the sweet spot every time. You don’t want to – because that’s a – basically, I mean, that’s a red flag. You cannot be in a sweet spot every time, so you know – you’re aware of your sweet spot, and you don’t want to put a return where your client is getting the max every time because it would implement (sic) that you have a pattern. It would implement that something is wrong. Sweet spot is just for people to actually know and understand what not to do on certain circumstances, or what they can do on other circumstances.

36. Demesmin and Chambers also provide scripts directing employees on how to interact with customers and potential customers. One script used by LBS informs customers that

they will be receiving a refund, although not all customers legally qualify for a refund:

SCRIPT:

There are three things that I am going to do for you today

1. I'm going to enter you information into the system
2. I will tell you how much your refund will be and
3. I will look for more forms and ways to get you more money legally, ok?

37. Demesmin, Chambers, and LBS fail to teach Demesmin's DSMs and tax return preparers crucial elements related to basic tax return preparation. For example, they provide no genuine instruction on the legal requirements to claim the Earned Income Tax Credit and the related due diligence requirements, procedures for detecting fraudulent Forms W-2, and the methods to question customers who provide suspicious, false, or fraudulent information. To the contrary, Demesmin, Chambers, and LBS affirmatively instruct Demesmin's DSMs and preparers on how to prepare returns that improperly claims bogus refunds based on false claims, credits, and deductions and to maximize the fees extracted from those refunds.

38. Gachette and LBS franchisees (including Demesmin) and employees give presentations to DSMs at the training in Orlando. DSMs are shown a power point presentation titled "Top 10 Things District Sales Managers Need to Know." The top ten list does not include any training on tax law. The power point focuses on marketing, hiring employees, interacting with customers (including selling tax return preparation to "hesitant" customers through scripts and "rebuttals"), how to maintain and organize files, and what to wear and not wear in the office.

39. The scripts to talk to customers are the primary focus of the training provided to LBS employees. Demesmin and Chambers require their employees to memorize the scripts to solicit customers face-to-face and over the phone, and when preparing tax returns and attempting

to coerce customers to agree to the inclusion of additional (and improper/false) IRS forms with, and bogus claims on, their tax returns. The purpose of these scripts is to solicit customers and, once those customers have come in the door, to run up the tax return preparation fees by attaching forms to the return at an additional charge to the customer. LBS includes bogus claims, credits, and deductions on these forms to generate a higher refund for the customer, and uses this higher refund to justify its additional tax return preparation fees.

40. As part of the training session, LBS gives its DSMs a “test.” Demesmin and other LBS franchisees are supposed to give the “test” to DSMs who cannot attend the training. The majority of the “test” and training is dedicated to marketing and soliciting business. The “test” also addresses LBS policies, such as how to maintain customer files and the fact that LBS’s tax return season “begins on December 26th.”

41. The training questions in the LBS “test” focus on data entry in the Drake software (the provider of the tax return preparation software that LBS licenses and uses to prepare LBS customers’ tax returns) and, in particular, how to input information on the forms that will generate the maximum (and bogus) refund for customers.

42. To the extent that the test addresses tax return preparation, the questions are very basic and, not surprisingly, the acceptable answers are not thorough and, occasionally, entirely incorrect.

43. The LBS “test” lists “Identification, Social Security Card, W-2, 1099” as the documents that a customer is purportedly required to provide to have their tax return prepared.

44. Demesmin’s DSMs, including Chambers, in turn, are purportedly required to train the tax return preparers at their stores. However, the training slides in the top ten list power point presentation only pertain to marketing and Drake software. For example, the first slide regarding

training, captioned “How to Train,” discusses teaching the “Appointment setting ‘on-the-spot’ script,” “Telephone script,” and “Presentation script” to employees. There is no instruction on how to convey to employees even basic tax law concepts, how to explain IRS forms such as a 1040, or how to train tax return preparers to actually prepare tax returns.

45. Demesmin, Chambers, and LBS also train Demesmin’s DSMs and preparers how to use Drake software to prepare tax returns. However, Drake software does not train preparers on tax law, and the training is limited to data entry and practice tax returns so that preparers know where to enter information in the software. Drake software itself does not provide in-person training.

46. Incredulously, Gachette claims that the IRS, not he and LBS, is responsible for providing tax training to LBS franchisees and tax return preparers (like Demesmin and Chambers), and that it is up to the IRS and Drake software to train LBS employees on how to prepare tax returns. However, the IRS and Drake software do not train LBS employees on tax law or proper tax return preparation, nor is it the IRS’s duty to train LBS employees how to prepare honest, accurate tax returns. That is LBS’s responsibility, which it is completely and utterly failing to meet.

47. The IRS requires that individuals applying for an Electronic Filer Identification Number (“EFIN”), such as LBS franchisees (including Demesmin) and DSMs (including Chambers), complete an application and submit to a background check. The IRS does not provide training on tax law or tax return preparation in connection with its EFIN application. The requirements to obtain an EFIN are available at: <http://www.irs.gov/Tax-Professionals/e-File-Providers-&-Partners/Become-an-Authorized-e-file-Provider>.

48. An EFIN is a unique number that clearly identifies the authorized provider and the location where the return was prepared. Before a person may prepare and electronically transmit tax returns for customers, he or she must obtain authorization from the IRS to become an authorized provider. Every authorized provider must apply for and receive an EFIN from the IRS. The EFIN requirement is not a means for the IRS to “train” applicants on tax law or how to prepare tax returns.

49. DSMs serve as the Electronic Return Originator (“ERO”) for their store. ERO is an Internal Revenue Service designation for the person or entity that electronically submits tax returns on behalf of customers. EROs are identified by their registered EFIN and are responsible for preparing and filing with each tax return an IRS Form 8879, “IRS e-file Signature Authorization.” Form 8879 is a signature authorization for an e-filed return filed by an ERO on behalf of a customer.

50. IRS Publication 1345 requires that an ERO “be diligent in recognizing fraud and abuse, reporting it to the IRS and preventing it when possible.” Demesmin, Chambers, and LBS conduct no meaningful quality control or oversight over their tax return preparers, much less act diligently to prevent the fraud and abuse that is undertaken with respect to the preparation of customers’ tax returns. Indeed, fraudulent return preparation is encouraged and flourishes at many LBS stores.

51. The only supposed quality control that Demesmin and Chambers conduct is purportedly having “Area Managers,” also known as “Area Developers,” conduct occasional reviews of other LBS Tax Services offices. These reviews consist of making sure that employees are dressed properly, that customer files are stored properly, that the “presentation script” and various “cheat sheets” (such as the earned income tax credit “cheat sheet” that lists

the answers that must be input into Drake software to complete to claim the Earned Income Tax Credit for a client) are taped to desks, and that the “forms order” cheat sheet (listing the order of forms that must be signed and placed in a customer’s file) is posted on the wall. The reviews also purportedly require the Area Manager to review up to five customer files for quality control; however, the Area Manager does not review whether the customers’ tax returns were properly prepared, but only whether certain forms are maintained in the files.

Defendants’ Fraudulent Activity

52. Demesmin, Chambers, and those acting in concert with them and at their direction have created and maintain a business environment and culture of greed at their LBS stores that expressly promotes and encourages the preparation of false and fraudulent federal income tax returns in order to maximize corporate and individual profits. By doing so, Demesmin and Chambers profit at the expense of their customers and the United States Treasury.

53. Many of LBS’s customers have low incomes and are unsophisticated with respect to tax law and tax return preparation. Customers often have no knowledge that LBS prepares and files fraudulent tax returns on their behalf. For others, LBS preparers—with Demesmin’s and Chambers’ consent and urging—mislead customers about the law, particularly with respect to various credits and deductions, and by promising them thousands of dollars of (illegal) refunds to coerce them to pay LBS to prepare their tax returns. Demesmin and Chambers benefit by receiving a significant portion of LBS customers’ fraudulently obtained refunds, which they retain through fees.

54. Demesmin and Chambers instruct, direct, assist, advise, encourage, and cause their managers and preparers to engage in illegal practices. These practices include, but are not limited to:

- a. Making fraudulent claims for the Earned Income Tax Credit;
- b. Circumventing due diligence requirements in order to fraudulently maximize the Earned Income Tax Credit;
- c. Improperly claiming false filing status, such as Head of Household when the customer is actually married;
- d. Fabricating Schedule C businesses and related business income and expenses;
- e. Fabricating Schedule A deductions, including but not limited to deductions for unreimbursed employee business expenses and automobile expenses;
- f. Falsely claiming education credits to which their customers are not entitled;
- g. Reporting inflated federal income tax withholdings that far exceed the amounts actually reported on customers' Forms W-2;
- h. Improperly preparing returns based on paystubs rather than Forms W-2;
- i. Falsely claiming the Fuel Tax Credit;
- j. Preparing amended tax returns for previous years to include bogus claims and credits on returns that were properly and accurately prepared elsewhere;
- k. Failing to provide customers with a copy of the completed tax return;
- l. Guaranteeing refunds; and
- m. Charging deceptive and unconscionable fees.

LBS Tax Services' "Guerilla Marketing"

55. Demesmin, Chambers, and LBS solicit customers through what Gachette calls "Guerilla Marketing." "Guerilla Marketing" involves misleading advertising and aggressive in-your-face individual sales pitches, targeted at low income individuals. The purpose is to get as

many potential customers in the door, prepare their tax returns, and prepare and attach to their tax returns additional and unnecessary forms containing bogus claims and credits, under the guise that LBS is doing so in order to legally increase the customer's tax refund.

56. Demesmin, Chambers, and LBS charge the customer exorbitant fees for preparing the return, for each form prepared and attached to the return, and for filing the return. LBS makes fraudulent claims on these forms, in order to improperly increase customers' refunds. LBS then falsely tells the customers that these forms legally increased the customers' refunds, and charges higher fees due to the additional forms and the higher refund that LBS claimed. These fees are all deducted from the customer's tax refund, often without the customer being told the amount that LBS actually charged for preparing the tax return.

57. "Guerilla Marketing" begins long before the tax filing season begins. LBS advertising focuses on the Earned Income Tax Credit, with street signs, flyers, and business cards that simply state, for example, that a potential customer can receive "\$3169 per child" from the IRS and listing an LBS phone number to call.

58. Demesmin, Chambers, and LBS instruct their employees to approach potential customers, ask whether they have children, hand out business cards, put up yard signs, and lure the potential customers to the LBS stores with promises of large refunds. This marketing occurs predominantly at large-scale retailers and grocery stores (marketers are specifically directed to solicit business at Wal-Mart), dollar stores, apartment complexes, public plazas, and large public events where LBS believes it can find potential customers who fit the low income demographic that it targets. LBS has also used radio ads, automated telephone calls, flyers on parked cars, billboards, and letters or mailers to previous or potential customers.

59. LBS's "Guerilla Marketing" is so aggressive that the LBS franchise agreement anticipates and accounts for the related fines that are inevitably imposed against LBS's stores by cities and municipalities for violations of local ordinances, particularly regulations pertaining to signs and advertising placed alongside streets. The agreement provides that the first \$500 in fines are paid by the franchisee, with any additional amounts paid by DSMs.

60. DSMs are instructed that if the "city comes to your office, you should apologize and beg; say you weren't aware of the rules," and then go put out "200 yard signs 3 miles away from your office in each direction" at midnight. If a DSM receives a "letter before February 14th saying you have to go to court," the DSM is instructed to "call the courthouse, tell them you have an emergency and can come to court any day in March." The purpose of this is to avoid going to court until LBS's tax preparation and filing season is effectively over.

61. Demesmin and Chambers recruit and employ individuals, referred to as marketers, whose sole job is to solicit customers. Marketers are trained to "be discrete (pretend your shopping)" and "be careful for security that will kick you out." The suggested times to market are "Before work, noon, 6-7 PM and midnight." Marketers are advised to avoid security guards and store employees who will make them leave the premises.

62. Demesmin, Chambers, and LBS provide scripts to marketers (in addition to managers and tax return preparers) on how to solicit customers. One script contains general introductory language, with three variations (depending on the date) used to schedule an appointment for the customer to have his or her tax return prepared. In all three variations, the script begins:

"Hi, I'm John a tax preparer. This year the IRS is giving \$3000 dollars per kid. What's your name? How many kids do you have?"

[The script uses the answer of two children as the example.]

“Perfect, I can get you \$6000 to \$7000 dollars legally.”

From December 6 to December 26, before the tax year is even over, the script concludes:

“Do you have you last paycheck stub?”

If the customer says no, the script continues: **“OK, What’s your name and number; I will have my secretary give you a call after Christmas to give you directions to the office one hour before.”**

From December 26 to January 8, the script concludes:

“Do you have you last paycheck stub?”

If the customer says yes, the script continues: **“I can do your taxes with that, what time and date can you come to my office?”**

From January 8 to March 14, the script concludes:

“Do you have your W2?”

If the customer says yes, the script continues: **“What time and date works best for you to come to my office?”**

(emphasis added.)

63. Of course, the IRS does not “give” taxpayers \$3,000 per child. Whether a taxpayer is entitled to a credit, such as the Earned Income Tax Credit or Child Tax Credit, and the amount of the credit that the taxpayer can claim, depends on numerous factors, including whether the child lives with the taxpayer, whether the taxpayer financially supports the child, and the age of the child.

64. Demesmin, Chambers, and LBS also provide similar scripts to tax return preparers and administrative staff at each store.

65. Instead of focusing on honest, accurate tax return preparation, LBS's business model is result-oriented. LBS instructs preparers to "SELL ON FEAR!" and to "ALWAYS try to get the customer more than they received the last year filed taxes." LBS's power point presentation at its training session reiterates the script that preparers are repeatedly taught: "If you agree I will leave the forms, If you don't I will take them off" – BUILDS TRUST!" If a customer hesitates, preparers are told to keep reiterating the portion of the script about how each form will get the customer more money from the IRS, and if the customer appears ready to walk away, preparers are instructed to get a DSM to help convince the customer to agree to the LBS's return preparation.

66. LBS employees speaking with potential customers over the phone are instructed to entice the customer by deceptively declaring how much money LBS can get refunded to the customer. For example, if a potential customer questions whether an LBS sign, business card, or radio ad was correct in saying the potential customer could get a tax refund of "\$3169 per child," the employee is instructed to respond that the potential customer "can get this much per child," ask how many children the potential customer has, and then tell the customer that "I can get you anywhere from 6-8 thousand" or "I can get you anywhere from 8-9 thousand," depending on whether the customer has 2 or 3 children. If the potential customer responds by questioning whether there is an income limit for the child credit, the employee is instructed to say that LBS "specialize[s] in maximizing your refund so come on in and we will show you exactly what you are entitled to."

67. The LBS scripts setting forth what employees are required to say upon completing customers' tax returns (or, more specifically, the Form 1040) are egregious and show a blatant

disregard of the law. Once an LBS employee has completed the Form 1040, he or she is instructed to say to customers:

“At this time I am getting you back \$ [amount]. Ma’am or Sir, I can search for more forms to get you more money legally. Each form I use will cost you more but you get more money. For instance, I see I can get you an extra \$3000 by using 7 more forms and each form cost[s] about \$75.00. At the end I will let you know how much your refund will be, minus our fees. If you agree I will leave the forms on, if you don’t agree, I will take them off.”

LBS cannot legally “get” a customer \$3,000 by “using forms” (for example, the 7 forms in the above script). Individuals receive a refund if it is legally owed and based on the honest reporting of facts, not, as is the case with LBS’s tax return preparation, by adding to tax returns forms that do not apply and that customers do not understand. LBS entices customers with the possibility of a bigger (albeit fraudulent) refund based on LBS’s addition of forms to customers’ tax returns but, in reality, a form or schedule applies or does not apply and must be attached to a return only based on customer-specific facts or circumstances.

68. LBS’s tax return preparation is result-oriented, rather than being honest and accurate. LBS’s tax return preparation is based on maximizing LBS’s own profits by drawing customers into a web of deception with promises of money, which comes in the form of bogus refunds issued by the U.S. Treasury as a direct result of the fraudulent claims made on LBS-prepared tax returns.

69. LBS primarily solicits business using deceptive marketing focusing on the Earned Income Tax Credit, particularly as it relates to claiming dependents. During the 2012 filing season, in addition to the yard signs which read “Tax Refund \$3094.00 per child,” LBS also

passed out the following business cards to potential customers:



70. LBS's advertisements regarding the Earned Income Tax Credit are misleading, at best, because the amount of the credit depends on several factors, such as income, marital status, and whether the child actually qualified as a dependent. LBS's advertisements simply recite the maximum amount of the credit that a qualifying taxpayer may be eligible to receive per child with no mention, let alone explanation, of the criteria that must be met to qualify for such an amount. Rather the advertisements clearly suggest that if you have children you will receive refunds of \$3,094 for one child and \$5,112 for two children. Moreover, preparing tax returns using a taxpayer's pay stub, as advertised, rather than a Form W-2, violates IRS regulations. And, of course, the IRS does not issue a "same day tax refund."

71. LBS effectively offers guarantees to its customers that they will receive refunds. LBS's advertising clearly suggests that customers with children will receive a refund. Some of the ads specifically refer to "EIC," and for those that do not, it is evident, based on the specific

amount identified in the ads and the income demographic that LBS targets, that the approximately \$3,000 “per child” is due to the Earned Income Tax Credit. In addition, the “three things that I am going to do for you today” script that LBS requires employees to memorize and recite explicitly states, “I will tell you how much your refund will be.” Guaranteeing the payment of any tax refund or the allowance of any tax credit violates 26 U.S.C. § 7407(b)(1)(C). LBS’s tax return preparation practices ensure that customers do receive a refund, frequently based on bogus claims for the Earned Income Tax Credit.

Earned Income Tax Credit Fraud and Failure to Comply with Due Diligence Requirements

72. Demesmin, Chambers, and many of their managers and tax return preparers prepare tax returns that include fraudulent claims for the Earned Income Tax Credit (EITC) often based on bogus dependents, fabricated business income and expenses, and/or false filing status.

73. The EITC is a refundable tax credit available to certain low-income working people. The amount of the credit is based on the taxpayer’s income, filing status, and claimed number of dependents. The requirements for claiming the EITC are set forth in I.R.C. § 32 and the accompanying Treasury Regulations.

74. Because the EITC is a refundable credit, claiming an EITC can, in certain circumstances, reduce a taxpayer’s federal tax liability below zero, entitling the taxpayer to a payment from the U.S. Treasury.

75. Due to the method used to calculate the EITC, an individual can claim a larger EITC by claiming multiple dependents and, for certain income ranges, individuals with higher earned income are entitled to a larger credit than those with lower earned income. The amount of the credit increases as income increases between \$1 and \$13,050, and decreases as income increases beyond \$17,100. Some tax preparers who manipulate reported income to maximize the

EITC refer to this range of earned income corresponding to a maximum EITC as the “sweet spot” or “golden range.” For tax year 2012, the maximum EITC was \$5,891 and was available to eligible individuals with three dependent children who earned income between \$13,050 and \$17,100.

76. Because of the way the EITC is calculated, reporting more income, up to a certain point, allows customers to receive a larger refundable credit. Similarly, claiming losses to offset higher income to decrease the total reported income and to fall within the “sweet spot” allows customers to claim a larger refundable credit.

77. To solicit business, LBS uses enticements of higher refunds based on the number of children that a potential customer has.

78. Demesmin, Chambers, and many of their managers and preparers acting at their direction and with his knowledge and consent, falsify information to claim the maximum EITC for customers. Unscrupulous tax return preparers at LBS exploit the rules by claiming on their customers’ returns bogus dependents and/or by reporting phony Schedule C businesses and income. Consistent with the “magic numbers” instruction sheet, to bring the customer’s reported earned income within the “sweet spot” for the EITC, and depending on a customer’s actual income, LBS preparers inflate or fabricate Schedule C income to fraudulently increase customers’ reported earned income, or claim bogus Schedule C expenses to fraudulently decrease customers’ reported earned income.

79. Reporting bogus income not only improperly enables LBS to falsely claim the EITC, but to fraudulently claim other credits as well, including the Child Tax Credit and American Opportunity Tax Credit.

80. Schedule C fraud is a means by which unscrupulous tax return preparers, like many of those at LBS, manipulate customers' income in order to obtain bogus refunds based on fictitious claims for the EITC and other credits. Because of the amount of the EITC credit, these preparers frequently charge higher fees in connection with their preparation of bogus Schedules C. Of the fees that LBS charges per IRS form, it charges \$250 or more for a Schedule C, the most for any form.

81. Because of the potential for abuse in claiming the EITC, Congress has authorized the Secretary of the Treasury to impose "due diligence" requirements on federal tax return preparers claiming the EITC for their customers. *See* 26 U.S.C. § 6695(g). These "due diligence" requirements obligate the tax return preparer to make "reasonable inquiries" to ensure the customer is legitimately entitled to the EITC. The tax return preparer may not "ignore the implications of information furnished to, or known by, the tax return preparer, and must make reasonable inquiries if the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete." *See* 26 C.F.R. § 1.6695-2 (2011). Tax return preparers must also document their compliance with these requirements and keep that documentation for three years. *Id.*

82. To document compliance with the due diligence requirements, tax return preparers must complete either the "Paid Preparer's Earned Income Credit Checklist" (Form 8867) and record and maintain other documentation verifying customer eligibility for the EITC.

83. As mentioned above, Demesmin, Chambers, and LBS provide their DSMs and preparers with specific instructions or cheat sheets that provide predetermined answers to input into the Drake software to claim the EITC on customers' returns, and dictate what boxes to check on the IRS Form 8867, "Paid Preparer's Earned Income Credit Checklist." These instructions – and the predetermined answers – demonstrate that the actual information (if any) provided by customers is disregarded by preparers, who simply answer the questions in the manner that LBS instructs in order to claim the EITC for customers who are not actually eligible for the credit (or for the inflated amount claimed by LBS):

EITC 2 NOTES:
SITUATION 1: -W2 taxpayer: click "yes" for "Does the income appear to be sufficient to support the taxpayer and qualifying children....." - click "not applicable" "taxpayers with self-employment income."
SITUATION 2: -Schedule C taxpayer: click "yes" for "Does the income appear to be sufficient to support the taxpayer and qualifying children....." - Question 2.) Fill out how many years the business has been in existence - Question 3.) Fill in "self" - Question 4.) Click "no" - Question 4b.) Type "by income only" - Question 5.) Click "yes" - Question 5a.) Click "log books" - Question 6.) "No" if there are no 1099-misc forms to support income, "yes" for 1099 taxpayer - Question 6b.) "Yes" - Question 7.) "Yes" - Question 8.) "Yes" - Question 9.) "No"

84. A portion of a similar LBS instruction sheet is below (the Drake software questions are followed by the predetermined answers in bold):

EIC2 INCOME (NOT A SCHC)

DOES THE INCOME APPEAR TO BE SUFFICIENT TO SUPPORT THE TAXPAYER AND QUALIFYING CHILDREN? CHECK YES
TAXPAYERS WITH SELF-EMPLOYMENT INCOME: CHECK NOT APPLICABLE

EIC2 INCOME (W/SCH C)

DOES THE INCOME APPEAR TO BE SUFFICIENT TO SUPPORT THE TAXPAYER AND QUALIFYING CHILDREN? CHECK YES
HOW LONG HAVE YOU OWNED YOUR BUISNESS? 1 YEAR
CAN YOU PROVIDE ALL DOCUMENTATION TO SUBSTAIATE YOUR BUISNESS? CHECK RECEIPTS OR RECEIPT BOOK
WHO MAINTAINS THE BUISNESS RECORDS? SELF
DO YOU MAINTAIN SEPARATE BANKING ACCOUNTS FOR PERSONAL AND BUISNESS TRANSACTIONS? CHECK NO
IF "NO" HOW DO YOU DIFFERNTIATE BETWEEN PERSONAL AND BUISNESS TRANSACTIONS AND MONETARY ASSETS? CASH LOG
WERE SATISFACTORY RECORDS OF INCOME AND EXPENSE PROVIDED? CHECK YES
IF "YES" IN WHAT FORM WERE THESE RECORDS PROVIDED? CHECK PAID INVOICES
FORM 1099-MISC NO/YES/YES/YES/NO

85. Because the Forms 8867 EITC Checklists that Demesmin's LBS stores generate are based on instruction sheets providing pre-determined answers showing that customers are eligible for the EITC, these forms, maintained in customers' files, appear to be complete, accurate, and based on statements and documentation provided by customers. In reality, because the answers are pre-determined, the only function of the LBS-completed Form 8867 EITC Checklist is to give the illusion that LBS complies with the due diligence requirements.

86. A closer review of LBS customer files reveals that Demesmin, Chambers, and many of their managers and preparers utterly fail to comply with the due diligence requirements. Customers are given an intake form to complete, which is comprised of several sections. The first few sections request basic information such as name, address, social security number, filing status, and dependents. The final section pertains to any business that the customer operated. Often these intake forms are not fully completed by the customer, if they are marked at all. In

many instances the LBS preparer entirely disregards the customer's responses on the intake form.

87. The LBS intake form apparently serves no other purpose than to give the illusion that LBS is questioning its customers and complying with the due diligence requirements. Frequently LBS preparers, rather than the customers, complete the form to support the claims that the preparer is fabricating on customers' tax returns.

88. The IRS has conducted investigations of Demesmin's LBS stores to determine whether the preparers complied with the due diligence requirements. In 2012, the IRS assessed \$22,000 against Be Proud Fashions, LLC for 44 violations of 26 U.S.C. § 6695(g). The IRS selected 44 tax returns for tax year 2011 identifying an employee at a Demesmin-owned LBS store as the paid preparer, and determined that none of the 44 returns complied with the due diligence requirements.

89. In 2011, the IRS assessed \$15,100 in penalties against Chambers for 151 violations of 26 U.S.C. § 6695(g) with respect to tax returns prepared for tax year 2009. The IRS reviewed 152 tax returns that Chambers prepared for tax year 2009, and determined that 151 failed to comply with the due diligence requirements.

90. The conduct of Demesmin, Chambers, and many of their managers and preparers shows an intentional disregard for the tax laws and in particular for the due diligence requirements, and demonstrates their unwillingness to comply with the requirements. Not only do Demesmin, Chambers, and many of their managers and preparers fail to adhere to the due diligence requirements, but they are falsifying information in order to maximize the EITC for their customers.

Intentionally Claiming an Improper Filing Status and Bogus Dependents

91. Demesmin, Chambers, and many of their managers and preparers also routinely prepare tax returns reporting false filing status. Specifically, head-of-household filing status is claimed on customers' tax returns to increase the amount of the customers' standard deduction, even though LBS is aware that the customer does not qualify for head-of-household status.

92. Demesmin, Chambers, and many of their managers and preparers frequently file separate returns for married couples who are not living apart, improperly using the "head-of-household" or "single" filing status, both of which are unavailable to married couples living together. Often, this is an attempt to increase the claimed EITC; a couple with at least two children who, together, would otherwise receive a single EITC refund of \$5,000 by properly claiming "married, filing jointly," may instead each receive a refund of \$3,000 or more, by both falsely claiming head-of-household or single status and each claiming at least one dependent.

93. Additionally, Demesmin, Chambers, and many of their managers and preparers claim dependents who do not actually qualify as dependents on customers' tax returns, and then claim head-of-household filing status to increase the customers' refunds through both the false filing status and fraudulent EITC claim based on the bogus dependents.

94. For example, customer V.D. had her 2012 federal income tax return prepared at the LBS store located at 319 W. Main St., Apopka, Florida. Chambers was the DSM at this store, and V.D.'s tax return was filed using an electronic filing identification number ("EFIN") registered to Chambers. V.D. told the preparer that she was married. Rather than select the filing status of "married filing jointly" or "married filing separately," however, the preparer falsely selected "head of household" on V.D.'s return. The preparer claimed the couple's son V.D.'s return. The preparer also falsely reported on the return that V.D. had an auto detailing

business, and that this non-existent business had a loss in the amount of \$6,681. By falsely claiming head of household and the bogus business loss, the preparer claimed a higher EITC and refund than V.D. was entitled.

95. Customer A.V. had his 2012 federal income tax return prepared at the LBS store located at 319 W. Main St., Apopka, Florida. Chambers was the DSM at this store, and A.V.'s tax return was filed using an EFIN registered to Chambers. A.V. was divorced and lived with his son in 2012. The preparer asked A.V. if he had anyone else that the preparer could report as a dependent on A.V.'s return. After the preparer's prodding, A.V. provided the preparer with the name of his nephew, who did not live with him. The preparer also asked A.V. if he did any work outside of his regular employment, and A.V. told the preparer that he painted two trailers for \$600 each. The preparer then falsely claimed that A.V. had a "mobile home repairs" business through which A.V. earned \$1,501, but incurred \$12,726 in expenses (including \$8,879 in car and truck expenses), for a loss of \$12,226. By falsely claiming this loss and an additional non-qualifying dependent on A.V.'s return, LBS falsely claimed a higher EITC and a bogus refund for A.V.

96. Customer L.C. had her 2012 federal income tax return prepared at the LBS store located at 2640 Hiawatha Ave., Sanford, Florida. L.C. provided the preparer with a copy of her ID, social security card, and last paystub from her employer – these documents are all that the preparer used to prepare and file L.C.'s return. L.C. also told the preparer that she was married. L.C. and her husband support their family based on Section 8 housing assistance, food stamps, and the disability payments that her husband receives. LBS falsely reported on the return that L.C. received \$12,851 in wages (in order to claim a bogus EITC), and improperly reported her filing status as head of household rather than married. L.C.'s return claimed her three children as

dependents. The preparer asked L.C. if she had any additional children that were not claimed as dependents, because LBS would pay her to use those children as dependents on other customers' tax returns. The preparer also asked L.C. if she had any friends who did not work and had children who could be claimed as dependents on customers' tax returns. L.C. also overheard other LBS employees in the store asking customers if the customers wanted to 'sell' their children's social security numbers to be claimed as dependents on other customers' tax returns.

Fabricated Schedule C Business Income and Expenses

97. Demesmin, Chambers, and many of their managers and preparers also prepare tax returns reporting non-existent businesses on bogus Forms Schedule C. On some of these returns, LBS reports substantial income, but little or no expenses. On other returns, LBS reports substantial expenses, but little or no income. The determining factor is whether LBS needs to inflate a customer's income (or create income when the customer has none) to bring the income within the EITC range or "sweet spot," or to lower the taxable income of a customer who has actual income (such as wages reported on a W-2) in order to either bring the income within the EITC "sweet spot" or simply to create a phony business loss to offset the customer's wages and fraudulently reduce the customer's income tax liability.

98. Demesmin, Chambers, and many of their managers and preparers also coerce customers to provide information that LBS can then use to fabricate claims on the customers' tax return. One LBS script, captioned "Schedule C," instructs preparers as follows: "if the person has a W-2 and made 5,000 or less ask if they have their own business give them examples of their own business (ex. hairstyling, nails, cutting grass)." Thus, based on LBS's suggestions, if a customer responds that they cut a friend's hair, or cut a family member's lawn, or cooked for a church event, LBS then falsely reports that as a business on a Schedule C with bogus income

and/or expenses in order to bring the income within the EITC “sweet spot” or to simply reduce the taxable income.

99. For example, married customers T.N. (husband) and T.N. (wife) had their 2012 federal income tax return prepared at the LBS store located at 319 W. Main St., Apopka, Florida. Chambers was the DSM at this store, and the Ns.’ tax return was filed using an EFIN registered to Chambers. T.N. (wife) provided the LBS preparer with copies of the Forms W-2 from her two employers, and a Form W-2 from her husband’s employer. The Ns.’ wages in 2012 totaled \$54,947. The preparer asked T.N. (wife) if she did any work on the side, and she told the preparer that she occasionally babysat for \$50, but not on a regular basis. The preparer told T.N. (wife) that she must feed the kids and pay for the electricity used when she babysat. The preparer then fabricated a “childcare” business on the Schedule C attached to the Ns.’ tax return called “T____s Clouds and Rainbows.” LBS fraudulently claimed that the purported childcare business had \$2,163 in gross receipts but \$2,101 in “Costs of goods sold”; it is not known what goods are sold by a purported childcare business. LBS further fraudulently claimed expenses for the non-existent business totaling \$27,299, including for car and truck expenses (\$21,991), advertising (\$486), utilities (\$689), meals and expenses (\$317), and “other” expenses (\$1,533 for cell phone, \$599 for work clothes, and \$252 for shoes). This created a bogus \$27,237 loss from the non-existent business. The preparer also fabricated a “Landscaping” business for T.N. (husband) called “T____s Lawn Service.” Similarly, the phony Schedule C for the husband’s non-existent business claimed \$2,199 in gross receipts, the same \$2,101 amount for “Costs of goods sold,” and fraudulent expenses totaling \$4,030, including “other” expenses (\$1,283 for cell phone, \$413 for uniforms, and \$361 for work boots). The Schedule C for T.N.’s (husband) non-existent business claimed a loss in the amount of \$3,932. LBS falsely claimed on the Ns.’ Form

1040 business losses totaling \$31,169, which fraudulently reduced the Ns.' taxable income to zero (improperly "qualifying" the Ns.' for a bogus EITC in the amount of \$4,925). As a result, LBS requested a bogus refund for the Ns.' in the amount of \$11,068.

100. Customer A.G. had her 2012 federal income tax return prepared at the LBS store located at 319 W. Main St., Apopka, Florida. Chambers was the DSM at this store, and A.G.'s tax return was filed using an EFIN registered to Chambers. A.G. gave the preparer a copy of her social security, the Form W-2 from her employer, receipts for prescriptions and health insurance, and a receipt for a charitable contribution. The preparer asked A.G. if she did anything on the side, and A.G. told the preparer that she volunteers as a cook for her church's activities, and is not paid to do so. LBS falsely reported on the Schedule C attached to A.G.'s return that she had her own business as a "cook." In reality, A.G. did not own any business in 2012, and did not inform LBS that she owned any business. LBS falsely reported that A.G.'s non-existent business had sales totaling \$1,505 in 2012, but incurred \$12,644 in expenses, including \$9,989 for bogus car and truck expenses. LBS reported this purported loss on A.G.'s Form 1040, fraudulently reducing her total income from \$22,837 to \$9,197, and thereby improperly increasing the EITC claimed on her tax return. As a result, A.G.'s 2012 tax return falsely claimed a refund of \$2,525. A.G. told the IRS that she did not review her tax return because she trusted LBS's tax knowledge and had no idea what the preparer was reporting on her return.

101. Chambers prepared and electronically filed the 2012 federal income tax return of customer C.B. at the LBS store located at 319 W. Main St., Apopka, Florida. On the Schedule C attached to the return, Chambers falsely reported \$6,185 in phony expenses, including \$6,084 in bogus car and truck expenses. Although C.B. did provide some home care in addition to her regular job, C.B. did not incur the expenses that Chambers fabricated on her tax return. By

fabricating this loss on the Schedule C attached to C.B.'s tax return, Chambers fraudulently reduced C.B.'s taxable income in order to falsely claim the maximum EITC of \$5,891, and claim a bogus refund in the amount \$8,050.

102. Married customers J.H. and S.H. had their 2012 federal income tax return prepared at the LBS store located at 1002 S. Dillard St., Winter Garden, Florida. In 2012, J.H. was employed by Southern Electric Supply and S.H. was a school bus driver. The LBS preparer prepared their tax return; however, after the H.'s returned home, they received a phone call from LBS stating that LBS was able to get them a bigger refund. LBS told the H.'s that they needed to return to the office to sign the new tax return. Upon returning to the LBS office, the LBS preparer told the H.'s that they could get a bigger refund if the preparer added a daycare business to their return. The H.'s responded no and told the preparer that they did not have a baby sitting business. The LBS preparer did not review the new return with the H.'s prior to filing. Despite the H.'s declining the preparer's offer to add a daycare business, the preparer falsely reported on the Schedule C attached to the H.'s return that the H.'s had a childcare business called "H_____ Childcare." The preparer claimed and that this non-existent business had bogus sales totaling \$1,654 and bogus expenses totaling \$31,350, including \$11,526 for car and truck expenses and \$14,650 for "other" expenses (\$3,210 for cell phone, \$980 for uniforms, \$1,120 for donations, \$600 for shoes, \$6,840 for gas, and \$1,900 for insurance). This egregious amount of bogus expenses resulted in the Schedule C reporting a phony loss in the amount of \$30,055, which fraudulently reduced the H.'s total income from \$80,956 to \$50,901. As a result, LBS falsely claimed a refund in the amount of \$6,259 on the H.'s tax return.

103. Customer S.P. had her 2012 federal income tax return prepared at the LBS store located at 1099 S. Clarke Rd., Ocoee, Florida. S.P. was employed as a nurse's assistant in 2012,

and provided her last pay stub (but no Form W-2) from her employer. S.P. did not engage in any other business activity, although she told the LBS preparer that she would occasionally prepare food for her church, for which she received no more than \$100 per month. The LBS preparer falsely claimed that S.P. had a catering business, called "P____ Bakery," with purported sales in the amount of \$7,452 and purported expenses in the amount of \$1,865. The result was phony business income of \$5,587 which, combined with S.P.'s wages and taxable interest, falsely increased her total income to \$15,554. LBS used this bogus business income to improperly claim an EITC in the amount of \$5,891, and a resulting bogus refund in the amount of \$7,240 on S.P.'s tax return.

Bogus Schedule A Deductions

104. Reporting bogus Form Schedule A deductions is another tactic commonly used by Demesmin, Rivera, and many of their managers and preparers to fraudulently reduce customers' taxable income. As with bogus Schedule C business losses, the bogus Schedule A deductions are typically reported on the tax returns of customers who have over \$24,000 in wage income reported on Forms W-2.

105. Demesmin, Chambers, and many of their managers and preparers often prepare tax returns for customers which include false claims for purported unreimbursed employee business expenses. Section 162 of the Internal Revenue Code governs trade or business expenses. These returns often claim deductions for fabricated, fraudulently inflated, and/or non-qualifying business expenses. IRS Publication 529 (which is readily available and easy to understand) provides examples of qualifying business expenses, including "Union dues and expenses" and "Work clothes and uniforms if required and not suitable for everyday use." See IRS Publication 529 (2013) (available at: <http://www.irs.gov/publications/p529/ar02.html>).

Publication 529 also provides examples of expenses that do not qualify as business expenses, including “Commuting expenses,” “Lunches with co-workers,” “Meals while working late,” and “Personal, living, or family expenses.”

106. One LBS script instructs the preparer to ask specific questions to customers:

(SCHEDULE A QUESTIONS)

- HOW MUCH DID YOU SPEND ON GAS?
- DID YOU ATTEND CHURCH? (10% TITHES) OR -DID YOU GIVE TO ANY CHARITIES?
- DID YOU PURCHASE ANY WORK UNIFORM(S)?
- DID YOU PURCHASE ANY WORK SHOES?
- DID YOU PURCHASE ANY TOOLS?
- ANY MEDICAL OR DENTAL EXPENSES?
- WHAT WAS YOUR CELL PHONE BILL?

If customers respond, for example, that they drove to and from work, Demesmin, Chambers, and many of their managers and preparers then claim a non-qualifying expense for commuting on the customers’ returns. If customers respond that they attend church, Demesmin, Chambers, and many of their managers and preparers claim that the customers made charitable contributions, even if they did not. Demesmin, Chambers, and many of their managers and preparers thus push customers to provide information that Demesmin, Chambers, and many of their managers and preparers can manipulate to make bogus claims on customers’ tax returns.

107. The LBS training “test” specifically instructs preparers that “Schedule A should only be used when the taxpayer has an outstanding income of 24,000 [dollars] or higher.” Demesmin, Chambers, and many of their managers and preparers frequently report on Forms Schedule A that customers had qualifying expenses such as medical expenses, state and personal property taxes, charitable contributions, and uniforms, when the customer had no such expenses.

108. For example, customer L.R. had her 2012 federal income tax return prepared at the LBS store located at 1099 S. Clarke Rd., Ocoee, Florida. In 2012, L.R. received wages from Charles Schwab and the Orlando Magic, totaling \$34,679. LBS falsely told L.R. that she could claim her son, who was incarcerated in 2012 and thus did not live with her, as a dependent. LBS falsely reported on the Schedule A attached to L.R.'s tax return that she had itemized deductions totaling \$15,665. This included bogus medical and dental expenses (\$3,552), charitable contributions (\$3,052), unreimbursed employee business vehicle expenses (\$7,912), and other unreimbursed employee expenses for parking (\$198), uniforms (\$728), insurance (\$1,392), and car repairs (\$1,501). The bogus medical expense was the amount of medical insurance premiums that L.R. paid in 2012. The preparer asked L.R. about any vehicle expenses, and she told the preparer that she had her car repaired, and LBS reported this as a bogus business vehicle expense. L.R. did not wear a uniform for work, and did not tell the preparer about any uniform expenses or charitable contributions. As a result of these fabricated deductions, LBS claimed a bogus refund in the amount of \$1,171 on L.R.'s tax return.

109. Customers R.G. and M.G. had their 2012 federal income tax return prepared at the LBS store located at 319 W. Main St., Apopka, Florida. Chambers was the DSM at this store, and the Gs.' tax return was filed using an EFIN registered to Chambers. R.G., an airfield electrician, initially provided LBS with a copy of his last paystub, and one week later provided LBS with a copy of his Form W-2. R.G. supported his family and received wages totaling \$60,721 in 2012. The Gs.' had approximately \$1,500 in medical expenses in 2012. However, LBS falsely reported on the Schedule A that the Gs.' medical expenses totaled \$13,167. LBS also falsely claimed that the Gs.' paid \$12,216 in mortgage interest, when, in fact, they only paid \$3,120. LBS also claimed bogus charitable contributions (\$2,103), unreimbursed employee

business vehicle expenses (\$8,078), business meals and entertainment expenses (\$1,422), and “other” bogus business expenses for cell phone (\$1,522), uniforms (\$1,277), and work shoes (\$141). By falsely claiming a total of \$44,177 in itemized deductions, LBS fraudulently claimed a refund in the amount of \$11,132 on the Gs.’ tax return.

110. J.B. and R.B. had their 2012 federal income tax return prepared at the LBS store located at 1002 S. Dillard St., Winter Garden, Florida. LBS claimed bogus itemized deductions in the amount of \$29,952 on the Schedule A attached to the Bs.’ tax return. LBS falsely claimed medical expenses in the amount of \$12,016, when, in fact, she and her husband had medical insurance, and told the LBS preparer that the premiums for her insurance were deducted from her pay. The Bs.’ did not incur any such medical expenses in 2012. LBS also falsely claimed \$14,280 as “rent” payments, classified as “other taxes” on the Schedule A. LBS claimed a bogus refund in the amount of \$4,220 as a result of these itemized deductions.

111. Demesmin, Chambers, and many of their managers and preparers commonly improperly deduct vehicle expenses on the Forms Schedule A attached to customers’ returns. In fact, LBS’s training “test” lists “Auto Expense” as one of the “4 forms that can get the client the maximum refund.” Forms Schedule A and C are also on among those listed forms.

112. Demesmin, Chambers, and many of their managers and preparers frequently report that a customer used a personal vehicle for a business purpose and that the customer drove tens of thousands of miles for work. In reality, the majority of this purported mileage is for commuting from home to work, which is not a qualifying vehicle expense. Demesmin, Chambers, and many of their managers and preparers also inflate the actual mileage that the customer drives each day to and from work. Therefore, not only are Demesmin, Chambers, and many of their managers and preparers claiming an improper, non-qualifying expense, but they

are falsely inflating the mileage number in order to further increase the bogus deduction on customers' tax returns.

113. For example, Chambers prepared and electronically filed the 2012 federal income tax return of K.A. at the LBS store located at 319 W. Main St., Apopka, Florida. In 2012, K.A. was employed at a BP gas station. K.A. provided chambers with a copy of her Form W-2. Chambers falsely claimed on the Schedule A attached to K.A.'s tax return that K.A. had unreimbursed employee business expenses, including \$7,070 in business vehicle expenses (purportedly for gas, oil, and repairs), \$4,241 for parking fees, tolls, and transportation, and \$2,999 in travel expenses. As a gas station employee, K.A. had no such expenses, and Chambers was aware that K.A. had no such expenses. By including these bogus expenses (along with a bogus business loss in the amount of \$18,938 on the Schedule C attached to K.A.'s tax return), Chambers fraudulently claimed a refund in the amount of \$6,277 on K.A.'s tax return.

114. Customer P.D. had her 2012 federal income tax return prepared at the LBS store located at 1184 S. Grand Hwy., Clermont, Florida. The LBS preparer falsely told P.D., a cashier, that she could deduct the mileage that she drove to and from work each day, and that she could provide an estimate of this mileage to the preparer. P.D. told the preparer that she drove between 5 and 10 miles to and from work. The preparer then falsely claimed on the Schedule A attached to P.D.'s tax return \$11,099 in unreimbursed employee business vehicle expenses, based on a purported 19,999 miles driven for business in 2012. The preparer falsely claimed that 100% of P.D.'s vehicle's use in 2012 was for business. Even if commuting expenses were deductible (they are not), and assuming that P.D. worked 365 days in 2012 and drove 10 miles per day (for a total of 3,650 miles), the preparer still overstated her mileage by 16,349 miles. At a deductible rate of 55.5 cents per mile, that overstatement increased the already fraudulent

deduction by \$9,073 (to be clear, the entire phony amount of \$11,099 was for an ineligible expense). LBS also overstated the medical expenses that P.D. incurred in 2012. As a result of these fabricated deductions, LBS claimed a bogus refund in the amount of \$1,989 on P.D.'s tax return.

115. Similarly, customer J.L. also had his 2012 federal income tax return prepared at the LBS store located at 1184 S. Grand Hwy., Clermont, Florida. The LBS preparer repeatedly asked J.L. if he used his car for work and falsely told J.L., a machine operator who is not required to travel for work, that he could deduct the mileage that he drove to and from work each day, and that she could provide an estimate of this mileage to the preparer. The preparer then falsely claimed on the Schedule A attached to J.L.'s tax return \$19,457 in unreimbursed employee business vehicle expenses, based on a purported 29,999 miles driven for business in 2012. The preparer falsely claimed that 100% of J.L.'s vehicle's use in 2012 was for business. As a result of this bogus Schedule A deduction, LBS fraudulently reduced J.L.'s taxable income to zero and requested a bogus refund in the amount of \$531.

116. Customer M.F. had her 2012 federal income tax return prepared at the LBS store located at 1099 S. Clarke Rd., Ocoee, Florida. The LBS preparer told M.F. that they "itemize" everything to get more money back for customers. The preparer falsely claimed \$22,490 in Schedule A deductions, including \$10,248 for bogus unreimbursed employee business vehicle expenses, and \$12,430 in bogus charitable contributions. By falsely claiming \$22,490 in itemized deductions, LBS fraudulently reduced M.F.'s taxable income to \$14,854, and requested a bogus refund in the amount of \$6,768.

117. Customer T.W. had his 2012 federal income tax return prepared at the LBS store located at 1701 Doyle Rd., Deltona, Florida. T.W. was employed by Farmers Insurance and

received wages in the amount of \$32,271 in 2012. LBS falsely reported on the Schedule A attached to T.W.'s tax return that he had \$16,990 in itemized deductions. The bogus deductions included \$9,900 for unreimbursed employee business vehicle expenses, \$4,249 for business meals and entertainment expenses, and \$1,479 in charitable contributions. T.W. did not have any such expenses and did not provide these amounts to the preparer. As a result of the phony deductions, LBS fraudulently claimed a refund of \$2,242 on T.W.'s tax return. The preparer did not review the completed tax return with T.W., but simply told him where to sign.

Bogus Education Credits

118. Another practice at Demesmin's and Chambers' LBS stores is fabricating education expenses and falsely claiming refundable education credits, including the American Opportunity Education Credit, on customers' federal income tax returns. Unlike many tax credits, a refundable tax credit entitles qualifying taxpayers to receive refunds even if they have no tax liability. Demesmin, Chambers, and many of their managers and preparers routinely and repeatedly claim false education credits on the tax returns of customers who did not attend college and had no qualifying education expenses, in order to fraudulently reduce their customers' taxable income and generate a larger bogus refund (and increasing the fees that they charge to customers).

119. For example, customer T.C. had her 2012 federal income tax return prepared at the LBS store located at 1002 S. Dillard St., Winter Garden, Florida. The LBS preparer told T.C. that she could get a bigger refund if she claimed to have education expenses, but T.C. told the preparer that she did not have any such expenses. Despite knowing that T.C. did not have any education expenses, LBS falsely claimed an American Opportunity education credit in the amount of \$1,000 on T.C.'s tax return.

120. Customer G.L. had his 2012 federal income tax return prepared at the LBS store located at 1002 S. Dillard St., Winter Garden, Florida. G.L. and his sister went to LBS to have his tax return prepared. G.L. did not attend college in 2012, but his sister did, and her education expenses were covered by grants. G.L. gave this information to the preparer. However, LBS then falsely claimed that G.L. had education expenses for his sister's education in the amount of \$2,469, and claimed a bogus American Opportunity education credit in the amount of \$847 on his tax return.

121. Customer J.B. had his 2012 federal income tax return prepared at the LBS store located at 2640 Hiawatha Ave., Sanford, Florida. J.B. attended college in 2012, but received a tuition waiver from the State of Florida and a Pell grant to cover the costs of books and fees. J.B. not only explained this to the LBS tax return preparer, but showed the preparer a website that showed how J.B.'s expenses were paid by third parties. Despite knowing this, LBS falsely claimed that J.B. paid \$4,000 in expenses related to his education, and claimed a bogus American Opportunity education credit in the amount of \$1,000 on his tax return. The preparer did not review a copy of the tax return with J.B.

122. Customer A.W. had her 2012 federal income tax return prepared at the LBS store located at 460 N. Ronald Reagan Blvd., Longwood, Florida. A.W. prepared her own tax return the year before, but went to LBS after seeing their flier. A.W. attended school in 2012, but her expenses were all paid for by grants. A.W. provided this information to the LBS tax return preparer. However, LBS falsely reported that A.W. had \$2,733 in education expenses, and claimed a bogus American Opportunity education credit in the amount of \$873 on her tax return.

Reporting Inflated Tax Withholdings

123. Demesmin, Chambers, and many of their managers and preparers also prepare tax returns on which they falsely report that an inflated amount of income tax was withheld from the customers' wages. Because this withholding amount is bogus, it does not match the actual amount of taxes withheld from the customers' pay as reported on the Form W-2 issued by the customers' employer(s). As a result, the LBS-prepared tax return requests a refund of this additional tax purportedly withheld, causing a bogus refund of tax that was never actually withheld from the customers' wages.

124. For example, customer K.E. had her 2012 federal income tax return prepared at the LBS store located at 1099 S. Clarke Rd., Ocoee, Florida. K.E. provided LBS with a copy of her Form W-2 from her employer. LBS correctly reported on the tax return that K.E. received \$4,577 in wages from her employer; however, LBS falsely reported that \$2,610 in income tax was withheld from her pay. In reality, according to the Form W-2 that her employer filed with the IRS, K.E. had only \$38 in income tax withheld. By falsely reporting an additional \$2,572 in income tax withheld on K.E.'s tax return, LBS fraudulently increased her tax refund by this amount.

Improperly Preparing and Filing Returns based on Pay Stubs

125. Demesmin, Chambers, and many of their managers and preparers also prepare and file federal income tax returns using customers' end-of-year pay stubs and then file their customers' tax returns without valid Forms W-2. In other instances, an IRS Form 4852, "Substitute for Form W-2," is attached to customers' returns, which falsely claims that the employer did not timely issue a Form W-2. In reality, the returns are prepared before the end of the tax year and/or before an employer even has the ability to issue a Form W-2 for that year.

126. Federal tax returns for wage earners must be prepared using Forms W-2. Using pay stubs to prepare and file tax returns is improper and violates IRS rules. Moreover, end-of-year pay stubs frequently omit income and distributions that are shown on employer-issued Forms W-2. Thus, preparing and filing federal income tax returns based on information from end-of-year pay stubs inevitably results in errors and omissions on federal tax returns, which necessarily interferes with the administration and enforcement of the internal revenue laws. Demesmin, Chambers, and many of their managers and preparers know that using paystubs to prepare and file returns violates IRS rules and regulations because in order to participate in the IRS's electronic filing program, all electronic filers, including those at Demesmin's and Chambers' LBS stores, must acknowledge that they will comply with the IRS's requirements, which expressly prohibit filing returns prepared with pay stubs and without genuine Forms W-2. IRS Publication 1345 also mandates that electronic filers "must not electronically file individual income tax returns prior to receiving Forms W-2, W-2G or 1099-R."

127. LBS begins soliciting customers in December of each year by falsely telling customers that their returns can be prepared using their most recent paystub. LBS's stores open on December 26, before the end of the tax year, before customers know how much income they earned and taxes they owe for the year, and before employers are able to issue Forms W-2 to their employees. Forms W-2 are not available to employees before the end of the calendar tax year, and tax returns cannot be filed before January of the processing year.

128. The "presentation script" that employees are trained to recite to prospective customers specifically instructs the employee to tell the potential customer to bring in their paystub to have their tax return prepared.

129. LBS customers fill out a taxpayer personal information sheet, which identifies the customer's name, address, social security number, and dependent information. The customers often complete these forms in December or early January, and because their employers have not yet issued Forms W-2, LBS uses the customers' most recent pay stub to prepare tax returns and create fake Forms W-2. LBS instructs its employees to retain the original pay stub in the customer files and to not file the pay stub with the IRS. LBS stores even maintain a separate storage bin for files of customers whose returns were prepared using a pay stub rather than a Form W-2.

130. Demesmin, Chambers, and many of their managers and preparers know that preparing tax returns based on paystubs violates IRS rules and regulations. As mentioned, DSMs (including Chambers) serve as EROs for the store they manage and have EFINs to electronically file returns. IRS Publication 1345 also mandates that "EROs must not electronically file individual income tax returns prior to receiving Forms W-2, W-2G or 1099-R."

131. The power point presentation that LBS shows at its training sessions instructs employees to tell potential customers: "Yes, we do last paycheck stubs. Come to our office and we will take care of you!" The presentation also warns employees not to file the actual paystub with the IRS because "your EFIN will be SUSPENDED and you will be DROPPED!!" Thus, LBS encourages the pay stub filing practice, but simply instructs its employees not to get caught.

132. Instead of filing the pay stub, the LBS training "test" specifically instructs preparers that a "Form 4852 is used for all last pay stub clients." Form 4852 is a Substitute for Form W-2 that is properly used when an employer does not issue a Form W-2 to the employee. It is not permissible to use a Form 4852 if a Form W-2 is or will be issued; the Form 4852 itself lists the possible penalties for improper use.

133. By preparing tax returns before the end of the tax year, Demesmin, Chambers, and LBS unfairly solicit business before competitors.

134. For example, customer T.H. had her 2012 federal income tax return prepared at the LBS store located at 319 W. Main St., Apopka, Florida. Chambers was the DSM at this store, and T.H.'s tax return was filed using an EFIN registered to Chambers. T.H. provided LBS with a copy of the two most recent paystubs from her employer. T.H. returned to LBS about two weeks later to ask why she had not received her refund. T.H. brought a copy of her Form W-2, but was told that LBS did not need to see it because her return was already filed. The LBS-prepared return overstated T.H.'s wages by \$9,965. This fraudulent overstatement of wages resulted in LBS falsely claiming an EITC in the amount of \$3,169, and claiming a bogus refund in the amount of \$4,172. In reality, T.H. only had \$3 in wages withheld from her pay in 2012 and did not qualify for such a large EITC. T.H. believes that LBS charged her around \$700 to prepare her tax return.

Fraudulent Fuel Tax Credit Deductions

135. Demesmin, Chambers, and many of their managers and preparers prepare and file federal income tax returns for customers on which they improperly claim false or fraudulent fuel tax credits using IRS Form 4136, "Credit for Federal Tax Paid on Fuels." The fuel tax credit is available only to taxpayers who operate farm equipment or other off-highway business vehicles. Moreover, the equipment or vehicles using the fuel must not be registered for highway uses. Demesmin, Chambers, and many of their managers and preparers improperly claim the fuel tax credit for customers' purported business motor fuel purchases, or report a fraudulently inflated amount of fuel that the customer used in his or her off-highway business equipment.

136. Internal Revenue Code section 6421(a) provides a tax credit for fuel used in an off-highway business use. Off-highway business use is any off-highway use of fuel in a trade or business or in an income-producing activity where the equipment or vehicle is not registered and not required to be registered for use on public highways. IRS Publication 225 provides the following examples of off-highway business fuel use: (1) in stationary machines such as generators, compressors, power saws, and similar equipment; (2) for cleaning purposes; and (3) in forklift trucks, bulldozers, and earthmovers. *See* IRS Publication 225 (2013), Farmer's Tax Guide, Chapter 14 (2013) (available online at: www.irs.gov/pub/irs-pdf/p225.pdf)

137. IRS Publication 510 defines a highway vehicle as any "self-propelled vehicle designed to carry a load over public highways, whether or not it is also designed to perform other functions." A public highway includes any road in the United States that is not a private roadway. This includes federal, state, county, and city roads and streets. These highway vehicles are not eligible for the fuel tax credit. IRS Publication 510 provides the following as examples of highway vehicles which are not eligible for the fuel tax credit: passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. *See* IRS Publication 510 (2013), Excise Taxes, Chapter 2 (available online at: www.irs.gov/pub/irs-pdf/p510.pdf).

138. IRS Publication 510 provides the following example of an appropriate application of the fuel tax credit:

Caroline owns a landscaping business. She uses power lawn mowers and chain saws in her business. The gasoline used in the power lawn mowers and chain saws qualifies as fuel used in an off-highway business use. The gasoline used in her personal lawn mower at home does not qualify.

139. In short, the fuel tax credit does not apply to passenger cars or other vehicles that are registered or required to be registered to drive on public highways.

140. Demesmin, Chambers, and many of their managers and preparers prepare federal income tax returns for customers and improperly reduce customers' reported tax liabilities by claiming bogus fuel tax credits under I.R.C. § 6421, falsely claiming that those customers used gasoline for qualified off-highway business purposes.

141. For example, customer A.P. had his 2012 federal income tax return prepared at the LBS store located at 1184 S. Grand Hwy., Clermont, Florida. A.P. was employed at Labor Ready and Austin Outdoor Lawn Service in 2012. A.P. gave LBS a copy of his Forms W-2 from his employers. A.P. also made around \$1,000 in 2012 cutting his friends' lawns, and had around \$200 to \$300 in expenses. However, LBS falsely reported on the Schedule C attached to A.P.'s return that he had gross receipts of \$10,999 and expenses of \$3,999, for total business income of \$7,000, for a "handyman service." LBS claimed a bogus fuel tax credit in the amount of \$2,379 on A.P.'s return, falsely reporting that A.P. purchased 12,999 gallons of fuel to cut his friends' lawns – a chore for which he made approximately \$1,000. Assuming, conservatively, that the fuel cost \$2.50 per gallon, A.P. would have had to spend \$32,497.50 on fuel in 2012, an amount far exceeding his income, which, in reality, totaled less than \$10,000 in 2012. LBS claimed a bogus refund in the amount of \$7,326 on A.P.'s tax return.

Preparation of Improper Amended Tax Returns

142. LBS also solicited business by telling potential customers that they should allow LBS to amend their prior year's tax returns, which were not prepared by LBS. LBS created telephone scripts and automated phone call messages to solicit such customers.

143. One such telephone script misrepresented not only tax laws, but the IRS's relationship with LBS:

Hi my name is Lynda I'm calling from the tax office here in Orlando we are certified with the IRS how are you this morning/afternoon/evening? Good. The reason for my important call is let you know we are providing a free service to the community. In the years of 2008, 2009, 2010 W-2 workers have not been receiving their maximum refund and IRS has allowed a program in which taxpayers can review their paperwork to ensure that they are not missing any credits. What we do as a company is assist taxpayers to verify that the person who prepared your taxes did not miss this information. Are you a W-2 worker? Perfect! Before I go any further can you please verify for me your address is still _____. Ok these credits that I mentioned can get you anywhere from 1,000-\$2,000 or more. Can you see where this extra cash might help you? I do want to let you know we do have a physical location here in central Florida and I have available appointments for _____, _____, _____.

144. LBS instructed employees that offices "should have 1-2 bins designated to just holding finished amendments."

145. LBS amended customers' previous year's tax returns in order to claim bogus refunds for the customers based on improper and unnecessary amendments (and thereby entice the customer to allow LBS to prepare tax returns for the customers for the current and/or future tax years) and to generate additional fees for LBS.

Deceptive, Unconscionable, and Undisclosed Fees

146. Demesmin's and Chambers' LBS stores charge unconscionably high fees to prepare tax returns, mostly through added, deceptive fees. These fees are typically charged without customers' knowledge.

147. LBS intentionally deceives its customers regarding the fees charged for the preparation of tax returns.

148. The LBS training "test" specifically instructs employees to tell potential customers who call LBS asking what the charge is for preparing a tax return to respond with:

“\$75. Would you like to set an appointment?” The “Telephone Script” instructing employees how to speak to a potential customer on the phone directs employees to respond to the question “How much do you charge?” with: “We charge \$75. You do not have to pay us up front; it will be deducted automatically from your refund.”

149. However, the actual cost may be several hundred dollars or more depending on the forms and schedules attached to the tax return. LBS charges additional fees for each form and schedule (such as a Schedule C or a Form 8863 for an education credit) attached to the Form 1040 tax return. LBS charges separate fees for forms and schedules such as the electronic filing authorization (Form 8879) which is required for e-filing, the EITC qualifying child form (Schedule EIC), and the related EITC due diligence checklist (Form 8867), which must be completed in connection with a claim for the EITC. These fees result in a total tax return preparation fee much higher than the \$75 advertised.

150. LBS also has so-called “999 charge weeks.” During these periods, Gachette and LBS franchisees (including Demesmin) encourage LBS stores to charge \$999 – or “as much as possible,” according to franchisee Douglas Mesadieu – for the preparation of tax returns that, at other times, would not result in such high fees. The sole purpose of “999 charge weeks” is to maximize the amount of revenue generated by LBS stores, and the high fees charged during these periods are not based on the difficulty or amount of time in preparing customers’ tax returns.

151. Customers must also pay the “service bureau” and “LBS transmittal” fees, totaling \$74, and fees to Drake software and EPS Financial (the refund processor) of \$7 and \$15 to \$20, respectively, in 2013. Thus, for a customer to have LBS prepare and e-file a basic federal

income tax return (which is the appropriate return for the majority of customers), the actual bare minimum is far more than the \$75 advertised amount.

152. The high fees (and fee structure, which encourages the addition of unnecessary and often improper forms and schedules to the Form 1040) are a strong incentive for LBS to prepare and file fraudulent returns claiming excessive refunds based on bogus claims and associated forms and schedules.

153. Because LBS targets low-income individuals, the high fees frequently pose a significant financial hardship for its customers. Additionally, fees are unconscionable for the basic tax returns being prepared for these customers, who are often eligible for free tax return preparation and electronic filing elsewhere.

154. Demesmin, Chambers, and their LBS stores also routinely and intentionally fail to disclose to customers all fees charged. LBS trains its employees how to present forms to customers to sign, including a form acknowledging the fees charged, without allowing the customer to closely review or understand the forms they are signing. Alternatively, LBS tells customers one amount for fees and then later increases the fees without the customers' knowledge or consent. Customers are often surprised to learn that the refund requested on their return is hundreds if not thousands of dollars more than the refund amount that they received after the fees were deducted.

155. Customers often complain that they did not know in advance that they would be charged exorbitant fees. LBS provides its customers with the amount of the refund that they will be receiving, which is much less than the refund amount that was actually claimed on their tax return (which is not disclosed to customers at the time their tax returns are prepared). This is a

recurring theme of complaints filed with the IRS and the Better Business Bureau, as well as local news reports regarding LBS locations across the country.

156. To the extent that customers are advised that additional fees may be charged per each additional form, they are not advised upon completion of the preparation of the tax return the total amount of those fees. If customers question the fee, LBS employees are instructed to tell the customer how much more money the preparer got the customer by adding additional forms to the tax return to increase the refund, and that, as the preparer stated in the initial “presentation script” each of those forms to get the customer more money back costs an additional fee.

157. LBS’s fees are not paid by customers at the time of the preparation of their tax returns, but instead are subtracted from the customers’ tax refund. By doing so, LBS is able to conceal from unsuspecting customers the actual amount that the customers pay to have their tax return prepared. Customers typically do not discover that LBS charged much more than the customers anticipated for the preparation of their tax return until the customers receive a refund that is much less than quoted by the tax return preparer because LBS had subtracted its high fees.

158. Tax refunds issued to customers are directed from the IRS to a third-party processor’s bank account. The processor then deducts and transmits the fees owed to Gachette and Demesmin for preparing the tax returns. The remaining refund amount is then directed to the customer, through direct deposit or check. The check issued to the customer makes no reference to the amount of fees deducted, which makes it easy for LBS to conceal, inflate and/or lie about its fees.

159. For example, LBS initially told customer J.L., described above in paragraph 115, that the fee to prepare his return would be \$110. LBS requested a refund in the amount of \$531

on J.L.'s tax return. When J.L. did not receive his tax refund, he contacted LBS and was told that that the fee ended up being the same amount as his refund, so LBS retained his entire refund.

160. Similarly, LBS told customer S.P., described above in paragraph 103, that the tax return preparation fee would be around \$200. LBS did not provide S.P. with a copy of her completed tax return. However, based on the amount of the refund claimed on S.P.'s tax return (as indicated on internal IRS records), and the amount of the refund that S.P. actually received from LBS, the actual amount that LBS subtracted as fees from her refund was closer to \$1,100.

161. LBS's practice of charging unconscionable and undisclosed fees violates consumer protection laws. The undisclosed and unconscionable fees also interfere with the administration and enforcement of the internal revenue laws. Potential customers go to LBS believing that they will be charged a reasonable fee for the honest and accurate preparation of their tax return. Instead, LBS charges unconscionable fees (based on the inclusion of additional forms and schedules that frequently make fabricated claims designed to fraudulently increase the customers' refund), that are subtracted from customers' falsely inflated refunds, without full disclosure to the customer. Such predatory behavior erodes consumer confidence in tax return preparers and dissuades taxpayers from seeking professional assistance with the preparation of their federal tax returns.

**Failure to Provide Customers with Copies of their Completed Tax Returns
in Violation of 26 U.S.C. § 6701(a)**

162. Demesmin, Chambers, and many of their managers and preparers commonly fail to provide customers with copies of their completed tax returns. The completed tax return, filed with the IRS, shows the refund that LBS is claiming for the customer. By giving a copy of the tax return to the customer, the customer is able to determine the amount of fees charged by LBS

by subtracting the amount of the refund that the customer actually receives from the amount of the refund claimed on the tax return. LBS's failure to provide a copy of a customer's completed tax return is part of LBS's strategy to conceal its actual fees from its customers.

163. Failing to provide a customer with a copy of the completed tax return also violates 26 U.S.C. § 6107(a), which requires that a tax return preparer "shall furnish a completed copy of [a tax return or claim for refund] to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature."

164. LBS's training "test" states that employees should provide a customer with a copy of the customer's tax return, but "Only if we will be E-filing the same day or if we have already E-filed." In reality, LBS customers do not receive copies of their tax returns, particularly those whose returns are prepared based on a pay stub days or weeks before the IRS even begins to accept filed tax returns. The answer to the LBS "test" question about whether to "give customers their copies of their 1040 tax papers" on January 5, 2013 is simply "NO."

165. Not only does LBS not provide a copy of the completed tax return to customers at the time it is prepared, but it fails to provide a copy after electronically filing the return, and also refuses to provide a copy later on the customer's demand.

**Examples of the Widespread and Common Fraud at
Demesmin's LBS Tax Services Locations**

166. Interviews of a random sampling of customers of Demesmin's LBS stores (including those for whom Chambers served as a GSM and/or DSM), and reviews of those customers' tax returns, illustrate the pervasive fraudulent activity described in this complaint. The IRS interviewed 119 customers whose returns were prepared at those stores. In addition to the customers described above, the following examples show the rampant fraud.

167. B.S. and her husband had their 2012 federal income tax returns prepared at the LBS store located at 319 W. Main St., Apopka, Florida. Chambers was the DSM at this store, and B.S.'s tax return was filed using an EFIN registered to Chambers. Although B.S. told the preparer that she was married, the preparer suggested that B.S. and her husband file separate returns to receive a larger refund. LBS then prepared separate tax returns for her and her husband, and falsely claimed head of household filing status on B.S.'s return. B.S. provided her last pay stub to LBS for the preparation of her return (B.S. later offered to provide her Form W-2 once she received it, but was told by LBS that her return had already been filed). The preparer reported that B.S. earned \$3,472 in wages, when the Form W-2 that her employer filed with the IRS shows that B.S. actually earned \$2,347. The preparer told B.S. that she could receive a larger refund if she had a babysitting business, and reported a phony child care business, purportedly called "S ____ Child Care," on B.S.'s tax return. The preparer falsely claimed that this non-existent business had \$16,589 in gross receipts and \$1,528 in expenses, for total income of \$15,061. By reporting this phony business income, LBS falsely claimed the EITC in the amount of \$5,809 and a bogus refund in the amount of \$6,129 on B.S.'s tax return. B.S. cannot read English and the preparer did not review or explain with B.S. the claims that were made on B.S.'s tax return.

168. E.S. and his wife had their 2012 federal income tax returns prepared at the LBS store located at 1002 S. Dillard St., Winter Garden, Florida. Although married, LBS told E.S. that he and his wife should file separately, and separately claim their three children as dependents. As a result, LBS falsely claimed on E.S.'s tax return head of household filing status and two children as dependents. LBS also falsely claimed head of household filing status on his wife's return, and their third child as a dependent. Additionally, LBS falsely claimed that E.S.

operated a business. In reality, E.S. worked for Caviness Beef Packers and Midwest Concrete Constructors in 2012, and travelled for his job. E.S.'s employers reimbursed him for all business-related expenses. LBS falsely claimed on the Schedule C attached to his return that E.S. had a business called "E____ Landscaping." LBS falsely reported that this non-existent business had gross receipts of \$784 and expenses totaling \$20,014, including \$9,315 for car and truck expenses, \$1,542 for travel expenses, and \$8,419 for "other" expenses (\$789 for cell phone, \$458 for "shoe," \$498 for uniforms, \$389 for donations, \$3,798 for gas, and \$2,487 for insurance). As a result of the bogus business loss of \$19,230, falsely claiming head of household filing status, and improperly splitting the couple's dependents, LBS fraudulently claimed an EITC in the amount of \$4,639 and a bogus refund in the amount of \$11,863 on E.S.'s tax return.

169. E.G. and V.G. also had their 2012 federal income tax return prepared at the LBS store located at 1002 S. Dillard St., Winter Garden, Florida. E.G., who is employed by the Orange County Sherriff's Office, provided LBS with his previous year's tax return, Forms W-2 for he and his wife, Form 1098 showing his mortgage interest paid, and two Forms 1099 related to his off-duty security work. LBS reported E.G.'s Form W-2 wages and Form 1099 income on the G.'s Form 1040 tax return. However, LBS also falsely reported the income from one of the Forms 1099 (which had already been reported on the Form 1040) on a Schedule C attached to the G.'s tax return, and fraudulently claimed business expenses totaling \$37,369, resulting in a phony business loss of \$30,265. These bogus expenses included \$18,291 in car and truck expenses, \$5,848 in travel expenses, and \$12,531 in "other" expenses (\$1,800 for cell phone, \$350 for uniforms, \$115 for "shoe," \$2,200 for donations, \$5,720 for gas, \$2,236 for insurance, and \$110 for tolls). Additionally, LBS claimed bogus Schedule A itemized deductions totaling \$18,017, including a mortgage interest expense of \$14,532, which overstated by \$6,134 the

mortgage interested reported on the Form 1098 provide by E.G. As a result of these fraudulent claims, LBS claimed a bogus refund in the amount of \$7,340 on the G.'s tax return.

170. D.F. had his 2012 federal income tax return prepared at the LBS store located at 319 W. Main St., Apopka, Florida. Chambers was the DSM at this store, and D.F.'s tax return was filed using an EFIN registered to Chambers. D.F. worked at the St. Vincent DePaul Thrift Store in 2012, and provided his last paystub and Form W-2 to LBS. The LBS preparer asked D.F. if he did any other work, and D.F. told the preparer that he helped some friends move, and that his friends gave him money to rent a moving truck and pay for the gas. The LBS preparer manipulated this information and falsely reported on the Schedule C attached to the return that D.F. had a business called "D____s Moving." LBS falsely claimed that D.F. had gross receipts of \$1,477 and had \$1,001 in "Costs of goods sold"; it is not known what goods are sold by a purported moving business. LBS also falsely claimed that D.F.'s non-existent business incurred \$7,522 in expenses, including \$5,918 in car and truck expenses and \$1,010 in "other" expenses (\$117 for computer and \$893 for cell phone), for a business loss of \$7,046. In addition, LBS also falsely claimed an American Opportunity education credit in the amount of \$1,000 on D.F.'s return, based on a purported \$3,999 in education expenses. In reality, D.F. did not attend college, and has never heard of the college reported on the Form 8863, Education Credits, completed by the LBS preparer. As a result of these fraudulent claims, LBS claimed a bogus refund in the amount of \$1,919 on D.F.'s tax return. D.F. paid around \$800 to have LBS prepare his tax return.

171. M.P. had his 2012 federal income tax return prepared at the LBS store located at 2290 S. Volusia Ave., Orange City, Florida. In 2012, M.P. received a call from LBS saying that he should have his tax return prepared. M.P. then faxed copies of the Forms W-2 issued by his

two employers to LBS. M.P. worked full time in 2012 as a manager at Denny's. However, LBS falsely reported that M.P. operated a business, called "M____s Catering Services." LBS fraudulently claimed that the business, purportedly operated out of M.P.'s apartment, had gross receipts of \$1,471, and expenses totaling \$39,734, including for advertising (\$3,648), car and truck expenses (\$8,983), repairs and maintenance (\$2,842), supplies (\$9,886), utilities (\$2,754), and "other" expenses totaling \$11,621 (cellphones \$1,862, special shoes \$310, dry cleaning \$1,668, insurance \$1,907, and dental expenses \$5,874). These expenses resulted in a reported loss of \$38,263 from the phony business. M.P. never told anyone at LBS that he was self-employed or owned a business. M.P. did not know that LBS had reported this purported business on his return because LBS never reviewed the completed return with him, but simply sent the return to him in an email after it was filed. As a result of these fraudulent expenses, LBS claimed a bogus refund in the amount of \$5,382 on M.P.'s tax return.

172. J.C. had her 2012 federal income tax return prepared at the LBS store located at 1099 S. Clarke Rd., Ocoee, Florida. LBS falsely reported that J.C. had \$2,387 in taxes withheld from her pay in 2012; however, according to the Form W-2 that her employer filed with the IRS, J.C. had only \$524 in taxes withheld, a difference of \$1,863. LBS also falsely reported that J.C., employed as a housekeeper at a Courtyard by Marriott hotel, operated a "house cleaning" business called "Fresh Clean" that had gross receipts of \$10,986 and expenses of \$1,185, for a profit of \$9,801. LBS claimed that J.C. had a \$3,000 capital loss in 2012, and attached a related Form 8949 Sale of Capital Assets form to her return, when J.C. had no capital assets of any kind in 2012, and did not tell LBS that she had such a loss. LBS did not provide a description of the property on the Form 8949, as is required. The preparer also attempted to convince J.C. that she attended college in 2012 in order to get a bigger refund. J.C. refused. As a result of the

fraudulent claims, and the overstated tax withholdings, LBS falsely claimed an EITC in the amount of \$5,236 and a bogus refund in the amount of \$8,122 on J.C.'s tax return.

173. A.H. had her 2012 federal income tax return prepared at the LBS store located at 319 W. Main St., Apopka, Florida. Chambers was the DSM at this store, and A.H.'s tax return was filed using an EFIN registered to Chambers. A.H.'s tax return reported wages in the amount of \$75,522. LBS falsely reported that A.H. operated a "youth mentoring" business, through which A.H. had gross receipts of \$560 and expenses totaling \$12,888, including \$7,602 for car and truck expenses, \$3,415 for repairs and maintenance, and \$1,124 for insurance. This resulted in a phony business loss of \$12,328 on the Schedule C attached to A.H.'s return. LBS also falsely claimed \$30,350 in itemized deductions on the Schedule A attached to A.H.'s return, including bogus charitable contributions (\$15,223), unreimbursed employee business vehicle expenses (\$9,501), and medical expenses (\$6,807). As a result of these claims, LBS claimed a bogus refund in the amount of \$4,996 on A.H.'s tax return.

174. J.H. had his 2012 federal income tax return prepared at the LBS store located at 1099 S. Clarke Rd., Ocoee, Florida. J.H. and his girlfriend went to have his tax return prepared. J.H. told the preparer that he was not married to his girlfriend; however, the preparer falsely told J.H. that he could file as head of household and claim his girlfriend's child as a dependent on his tax return. J.H. also told the preparer that he did not have a business in 2012, but that he had a business in 2009. The preparer falsely told J.H. that he could claim his previous business on his 2012 tax return. Thus, LBS falsely claimed head of household status and J.H.'s girlfriend's son as a dependent on J.H.'s tax return. LBS also reported a phony "mobile detailing" business on the Schedule C attached to J.H.'s return which falsely claimed \$8,025 in sales and \$10,694 in expenses (including \$8,539 in car and truck expenses), for a loss of \$2,669. By false claiming

this loss, and a bogus dependent, LBS fraudulently claimed an EITC in the amount of \$3,169 and a bogus refund in the amount of \$5,384 on J.H.'s tax return. LBS initially told J.H. that the fee to prepare his return would be \$75, but after it was prepared, LBS told J.H. that the fee was \$700.

175. R.C-B. had her 2012 federal income tax return prepared at the LBS store located at 1184 S. Grand Hwy., Clermont, Florida. In 2012, R.C-B. was not employed; her only income came from occasional babysitting and selling tamales to friends and relatives, and she earned less than \$3,000 from these activities. R.C-B. lived with her boyfriend, who was the father of her children. The LBS preparer told R.C-B. that the preparer was going to help R.C-B. get the child tax credit and that what the preparer was doing was legal. The preparer then falsely reported that R.C-B. received \$17,999 in wages, when, in fact, R.C-B. did not have a job in 2012. By falsely reporting these wages, LBS fraudulently claimed a \$2,000 child tax credit and a resulting bogus \$2,000 refund on R.C-B.'s tax return. LBS charged R.C-B. around \$400 to prepare the return.

Investigations, Lawsuits, and Penalties have Not Deterred the Defendants

176. Despite knowing of the widespread and pervasive fraudulent conduct surrounding their tax return preparation business, the IRS's examinations of customers' tax returns and assessment of penalties against Demesmin and Chambers for failing to comply with the due diligence requirements, lawsuits filed against LBS by the State of Texas and H & R Block, and the well-publicized complaints, including those by the Better Business Bureau, online consumer protection sites, and various local media outlets throughout the country, Demesmin and Chambers have not taken any meaningful steps to stop the fraud.

177. In fact, the only apparent change in 2014 is that several LBS stores (including Chambers') began doing business under different names. In actuality, nothing has changed.

178. To the extent that Demesmin and Chambers claim that they do not know of the fraud committed by their LBS stores, their ignorance is deliberate, and they, in furtherance of their own greed, intentionally ignore and turn a blind eye to complaints documenting LBS's fraudulent practices.

179. Demesmin and Chambers have little incentive to stop the wrongdoing because they directly profit from the misconduct at their LBS stores by taking a percentage of all gross revenues. Accordingly, Demesmin and Chambers promote a culture of greed that favors volume and profits over accuracy and integrity, and creates an environment where fraudulent tax return preparation and violations of federal tax laws flourish.

Harm Caused by the Defendants

180. Demesmin's and Chambers' knowledge and encouragement of fraud at their tax return preparation stores, false and misleading statements directed to customers and potential customers, and culture favoring volume and profits over accuracy and integrity, have harmed the public and the United States Treasury. Demesmin, Chambers, and many of their managers and preparers prepare false or fraudulent tax returns that understate their customers' correct income tax liabilities and illegally cause customers to incorrectly report their federal tax liabilities and underpay their taxes.

181. The fraudulent practices of Demesmin, Chambers, and many of their managers and preparers harm the United States Treasury in the form of lost tax revenue. For instance, the IRS randomly sampled 238 customers whose 2012 tax returns were prepared at LBS stores that Demesmin owned in the Orlando metropolitan area (including, but not limited to, stores that Chambers oversaw as GSM and/or DSM). The IRS interviewed 119 taxpayers and reviewed their LBS-prepared tax returns. The IRS determined that the compliance rate (the number of

returns with no errors) from this sample was a mere 9.4%; therefore, 90.6% of the returns in this sample contained errors, with an average tax deficiency of \$3,194 per return. Based on this random sampling and statistical analysis, the IRS estimates that the tax loss from Demesmin-owned LBS stores in the Orlando metropolitan area for tax year 2012 alone could be as much as \$6.1 million or more.

182. Demesmin's and Chambers' customers have also been harmed because they relied on LBS to prepare proper tax returns. Instead, customers' tax returns substantially understated their correct tax liabilities after paying unconscionably high fees to have their tax returns prepared. As a result, many customers, who are often low-income taxpayers, now face large income tax debts and may be liable for sizeable penalties and interest.

183. Customers are harmed by the unconscionably high and frequently undisclosed tax preparation fees and related bogus fees tied to anticipated tax refunds. These fees are subtracted from the erroneous refunds that result from LBS's fraudulent tax return preparation. When the IRS conducts audits or examinations of customers and seeks repayment of these erroneous refunds, the customers are liable for the repayment of those refunds. Not only do customers face the hardship associated with repayment of erroneous refunds resulting from LBS's culture of greed at others' expense, but customers may also have to repay the portion of the refund that LBS subtracted for its high fees. Customers may also have to pay additional fees to other tax return preparers who will file correct, accurate amended tax returns to correct the fraudulent tax returns that LBS prepared and filed.

184. Other customers are harmed by LBS's fraudulent practices because they have lost or become ineligible for federal and/or state benefits due to the false claims that LBS made on their tax returns.

185. Demesmin's and Chambers' misconduct further harms the United States and the public by requiring the IRS to devote scarce resources to detecting the fraud and assessing and collecting lost tax revenues from defendants' customers. IRS employees have spent thousands of hours conducting audits or reviewing tax returns prepared by LBS and interviewing hundreds of customers. In addition, IRS employees have devoted still more time making compliance visits to various franchises. Consequently, identifying and recovering all lost tax revenues resulting from LBS's fraudulent and illegal activities may be impossible.

186. Demesmin's and Chambers' conduct also harms honest tax return preparers who refuse to engage in such illegal conduct. Honest tax return preparers unfairly lose business to LBS as a result of LBS's willingness to break the law. Customers often have their returns prepared with paystubs at LBS because law-abiding preparers do not prepare a tax return without an employer-issued Form W-2. Customers also have their returns prepared at LBS because LBS promises the maximum refund, and delivers by fabricating claims and deductions on customers' returns.

187. Finally, Demesmin's and Chambers' misconduct harms the public at large by undermining public confidence in the federal tax system and encouraging widespread violations of the internal revenue laws.

188. The harm to the government and the public will increase unless Demesmin and Chambers are enjoined because—given the seriousness and pervasiveness of their illegal conduct—without an injunction, Demesmin and Chambers are likely to continue enabling the preparation of false and fraudulent federal income tax returns for customers. The number of Demesmin-owned LBS stores has increased exponentially over the past 3 years, going from 4 stores in 2011 to at least 26 in 2013, and LBS's stated goal for total stores is 1,000 by 2016. An

injunction will serve the public interest because it will put a stop to Demesmin's and Chambers' illegal conduct and the harm that such conduct causes the United States and its citizens.

Count I
Injunction under I.R.C. § 7407

189. Section 7407 of the I.R.C. authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under I.R.C. § 6694 or § 6695. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (i.e., prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, among other things, the following:

- a. Engaging in conduct subject to penalty under I.R.C. § 6694(a), which penalizes a return preparer who prepares a return or claim for refund that contains an unreasonable position and the return preparer knew (or reasonably should have known) of the position;
- b. Engaging in conduct subject to penalty under I.R.C. § 6694(b), which among other conduct, penalizes a return preparer who recklessly or intentionally disregards IRS rules or regulations;
- c. Engaging in conduct subject to penalty under I.R.C. § 6695(g), which penalizes a return preparer who fails to comply with the statutory due diligence requirements;
- d. Guaranteeing the payment of any tax refund or the allowance of any tax credit; or
- e. Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

190. Section 7701(a)(36) of the I.R.C. defines tax return preparer to include not only the individual who physically prepares a tax return for compensation, but also anyone “who employs one or more persons” to prepare tax returns for compensation.

191. Demesmin and Chambers, as shown above in paragraphs 1 through 188, are tax return preparers who have repeatedly and continually prepared or submitted returns or portions of returns (or employed or managed others who prepared or submitted returns or portions of returns) that contain unreasonable positions and substantially understate the liability for tax on the return. Demesmin and Chambers also advise, instruct, direct, and cause their managers, preparers, and employees to engage in tax fraud, and to prepare federal income tax returns asserting unreasonable, unrealistic, frivolous and fraudulent positions. Accordingly, Demesmin and Chambers knew (or reasonably should have known) of the unreasonable, unrealistic, frivolous and fraudulent positions.

192. Demesmin and Chambers and those acting in concert with them and at their direction have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal tax returns that understate his customers’ liabilities based on unrealistic, frivolous and reckless positions. Demesmin and Chambers, through the actions described above, recklessly or intentionally disregard IRS rules or regulations.

193. Demesmin, Chambers, and those acting in concert with them and at their direction have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695. The Treasury regulations promulgated under I.R.C. § 6695(g) prohibit a return preparer from claiming the EITC without first conducting proper due diligence and documenting his or her compliance with the due diligence requirements. *See* 26 C.F.R. § 1.6995-2 (2011). Demesmin and Chambers advise, encourage, and cause their managers, preparers, and employees to

circumvent these due diligence requirements and to ignore or disregard the information provided by customers.

194. Demesmin's and Chambers' failure to comply with the due diligence requirements for the EITC violates Treasury Regulations and their willingness to falsify information to obtain the EITC for their customers shows a reckless and/or intentional disregard of IRS rules and regulations.

195. Demesmin, Chambers, and those acting in concert with them and at their direction have continually and repeatedly prepared federal income tax returns that claim the EITC for customers where they and those acting in concert with them and at their direction have not conducted, let alone documented, the required due diligence procedures.

196. Demesmin and Chambers also fail to comply with I.R.C. § 6695(a), which requires that a tax return preparer provide a copy of the completed tax return to the taxpayer.

197. Demesmin's and Chambers' continual and repeated violations of I.R.C. §§ 6694 and 6695 fall within I.R.C. § 7407(b)(1)(A), and thus are subject to an injunction under I.R.C. § 7407.

198. Demesmin's and Chambers' continual and repeated fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws falls within I.R.C. § 7407(b)(1)(D), and thus is subject to an injunction under I.R.C. § 7407.

199. Demesmin, Chambers, and those acting in concert with them and at their direction have continuously and repeatedly guaranteed refunds to customers and guaranteed the allowance of tax credits, including but not limited to the EITC. This conduct falls within I.R.C. § 7407(b)(1)(C), and thus is subject to an injunction under I.R.C. § 7407.

200. If Demesmin and Chambers are not enjoined from all tax preparation, they and those acting in concert with them and at their direction are likely to continue to prepare and file false and fraudulent tax returns.

201. Demesmin's and Chambers' continual and repeated conduct subject to an injunction under I.R.C. § 7407, including their continual and repeated fabrication of expenses and deductions, is so flagrantly illegal and so egregious that it demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent Demesmin's and Chambers' interference with the proper administration of the internal revenue laws. Accordingly, Demesmin and Chambers should be permanently barred from acting as federal tax preparers, and from owning, operating, managing, controlling, licensing, franchising, or working for a tax return preparation business.

Count II
Injunction under I.R.C. § 7408

202. Section 7408 of the I.R.C. authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. § 6700 or § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

203. Section 6701(a) of the I.R.C. penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having reason to believe) that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it will result in an understatement of another person's tax liability. Under I.R.C. § 6701(c)(1), the term "procures" includes "ordering (or otherwise causing) a subordinate to do an act," as well as "knowing of, and not attempting to prevent, participation by a subordinate in an act."

204. Demesmin and Chambers, through the actions detailed above in paragraphs 1 through 188, caused the presentation and preparation of false, fraudulent, and abusive tax returns and other documents. Demesmin and Chambers prepare, assist, and/or advise with respect to the presentation and preparation of federal tax returns for customers that they knows will understate their correct tax liabilities, because Demesmin and Chambers knowingly prepare, assist, and/or advise with respect to the presentation and preparation of returns claiming bogus expenses and deductions. Demesmin and Chambers procured and assisted the preparation of false and fraudulent tax returns by encouraging the filing of tax returns they knew were false or fraudulent, and by employing, training, and supervising tax return preparers engaging in tax fraud. Demesmin's and Chambers' conduct is thus subject to a penalty under I.R.C. § 6701.

205. In addition, Demesmin and Chambers have not altered their behavior despite being previously warned and assessed penalties for similar conduct. Demesmin and Chambers are likely to continue violating the law absent an injunction. Tax return preparation is Demesmin's and Chambers' primary source of revenue. To maximize that income, Demesmin and Chambers instruct and direct their managers and preparers to prepare fraudulent returns. That fraudulent conduct, in turn, gives Demesmin and Chambers a competitive edge over law-abiding preparers. It also provides a means for Demesmin and Chambers to further exploit their customers by charging them unconscionably high fees, while Demesmin's and Chambers' fraud simultaneously and callously exposes their customers to possible civil and criminal liability.

206. If the Court does not enjoin Demesmin and Chambers, they are likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Demesmin's and Chambers', and those acting in concert with them and at their direction, preparation of returns claiming improper

expenses and deductions is widespread over many customers and tax years. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III
Injunction and Disgorgement under I.R.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

207. Section 7402 of the I.R.C. authorizes a district court to issue injunctions, orders, judgments, and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws.

208. Demesmin and Chambers, through the actions described above in paragraphs 1 through 188, including, but not limited to, intentionally understating their customers' tax liabilities and charging unconscionable and undisclosed fees for the preparation of federal tax returns that intentionally understate their customers' tax liabilities, have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

209. Unless enjoined, Demesmin, Chambers, and those acting in concert with them and at their direction are likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Demesmin and Chambers are not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them.

210. While the United States will suffer irreparable injury if Demesmin and Chambers are not enjoined, Demesmin and Chambers will not be harmed by being compelled to obey the law.

211. Enjoining Demesmin and Chambers is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Demesmin's and Chambers' illegal conduct and the harm it causes the United States and to their customers.

212. The Court should impose injunctive relief under 26 U.S.C. § 7402(a).

213. Demesmin's and Chambers' conduct, which substantially interferes with the enforcement of the internal revenue laws, caused the United States to issue tax refunds to individuals not entitled to receive them, and Demesmin and Chambers have unjustly profited at the expense of the United States by subtracting their exorbitant fees from those refunds.

214. The Court should enter an order under 26 U.S.C. § 7402(a) requiring Demesmin and Chambers to disgorge to the United States the proceeds that Demesmin and Chambers and their businesses received for the preparation of federal tax returns that make false or fraudulent claims.

WHEREFORE, the United States of America prays for the following:

A. That the Court find that Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera have continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and have continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera from acting as a federal tax return preparer;

C. That the Court find that Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera have engaged in conduct subject to penalty under I.R.C. § 6701, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

D. That the Court find that Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera have engaged in conduct that interferes with the enforcement of the internal revenue laws, and

that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and I.R.C. § 7402(a);

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera, and all those in active concert or participation with them, from:

- (1) acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;
- (2) preparing or assisting in preparing federal tax returns that they know or reasonably should have known would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;
- (3) owning, operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business;
- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;
- (5) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (6) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order requiring Jean R. Demsmin and Tonya Chambers a/k/a Tonya Rivera to immediately and permanently close, because of the pervasive fraud, all tax return preparation stores that they own directly or through Be Proud Fashions, LLC, JDTR, LLC, BPTS, LLC, Taxes Done Right, LLC, Tonya Rivera, LLC, or any other entity, and whether those stores do business as LBS Tax Services, BPTS Tax Services, or under any other name;

G. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order appointing a receiver to sell all of the hard assets, such as computers (after any and all taxpayer information has been removed), electronics, and furniture, for all tax return preparation stores that Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera owns directly or through Be Proud Fashions, LLC, JDTR, LLC, BPTS, LLC, Taxes Done Right, LLC, Tonya Rivera, LLC, or any other entity, and whether those stores do business as LBS Tax Services, BPTS Tax Services, or under any other name;

H. That the Court, pursuant to I.R.C. § 7402(a), enter an order prohibiting Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera, directly or through Be Proud Fashions, LLC, JDTR, LLC, BPTS, LLC, Taxes Done Right, LLC, Tonya Rivera, LLC, or any other entity, from assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to LBS Tax Services, BPTS Tax Services, or any other tax return preparation business to which they or any entity under their control is a party;

I. That the Court, pursuant to I.R.C. § 7402(a), enter an order barring Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera from: (1) selling to any individual or entity a list of customers, or any other customer information, for whom Jean R. Demesmin, Tonya Chambers a/k/a Tonya Rivera, LBS Tax Services, and any other business or name through which Demesmin, Chambers, or those acting at their direction have at any time since 2009 prepared a tax return; (2) assigning, disseminating, providing, or giving to any current or former franchisee, General Sales Manager, District Sales Manager, manager, tax return preparer, employee, or independent contractor of Demesmin, Chambers, LBS Tax Services, BPTS Tax Services, or any other business through which Demesmin and Chambers prepare tax returns or own or franchise a tax return preparation business, a list of customers or any other customer information for

customers for whom Jean R. Demesmin, Tonya Chambers a/k/a Tonya Rivera, LBS Tax Services, BPTS Tax Services, and any other business or name through which Demesmin, Chambers, or those acting at their direction have at any time since 2009 prepared a tax return; and (3) selling to any individual or entity any proprietary information pertaining to LBS Tax Services, BPTS Tax Services, and any other business or name through which Demesmin, Chambers, or those acting at their direction have at any time since 2009 prepared a tax return;

J. That the Court, pursuant to 26 U.S.C. § 7402, enter an order requiring Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera to disgorge to the United States the proceeds (the amount of which is to be determined by the Court) that Jean R. Demesmin, Tonya Chambers a/k/a Tonya Rivera, Be Proud Fashions, LLC, JDTR, LLC, BPTS, LLC, Taxes Done Right, LLC, and Tonya Rivera, LLC received (in the form of fees) for the preparation of tax returns that make or report false or fraudulent claims, deductions, credits, income, expenses, or other information that results in the understatement of taxes, prepared since 2009 at LBS Tax Services and BPTS Tax Services stores owned by Jean R. Demesmin, Tonya Chambers a/k/a Tonya Rivera, Be Proud Fashions, LLC, JDTR, LLC, BPTS, LLC, Taxes Done Right, LLC, and Tonya Rivera, LLC;

K. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order requiring Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera to contact, within thirty days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom Jean R. Demesmin, Tonya Chambers a/k/a Tonya Rivera, and their managers and preparers prepared federal tax returns or claims for a refund for tax years 2008 through 2013 to inform them of the permanent injunction entered against them, including sending a copy of the

order of permanent injunction but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court;

L. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera to produce to counsel for the United States, within thirty days of the Court's order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom Jean R. Demesmin, and Tonya Chambers a/k/a Tonya Rivera, and their managers and preparers prepared federal tax returns or claims for a refund for tax years beginning in 2008 and continuing through this litigation;

M. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera to produce to counsel for the United States, within thirty days of the Court's order, a list that identifies by name, address, e-mail address, and telephone number all principals, officers, managers, franchisees, employees, and independent contractors of Jean R. Demesmin, Tonya Chambers a/k/a Tonya Rivera, LBS Tax Services, BPTS Tax Services, Be Proud Fashions, LLC, JDTR, LLC, BPTS, LLC, Taxes Done Right, LLC, and Tonya Rivera, LLC, from 2009 to the present;

N. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera to provide a copy of the Court's order to all principals, officers, managers, franchisees, employees, and independent contractors of Jean R. Demesmin, Tonya Chambers a/k/a Tonya Rivera, LBS Tax Services, BPTS Tax Services, Be Proud Fashions, LLC, JDTR, LLC, BPTS, LLC, Taxes Done Right, LLC, and Tonya Rivera, LLC within fifteen days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment of receipt of the Court's

order for each person whom Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera provided a copy of the Court's order;

O. That the Court retain jurisdiction over Jean R. Demesmin and Tonya Chambers a/k/a Tonya Rivera and over this action to enforce any permanent injunction entered against them;

P. That the United States be entitled to conduct discovery to monitor Jean R. Demesmin's and Tonya Chambers' a/k/a Tonya Rivera's compliance with the terms of any permanent injunction entered against them; and

Q. That the Court grant the United States such other and further relief, including costs, as is just and reasonable.

DATED: September 23, 2014

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